

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 994**

FINAL READING

Introduced by Health and Human Services Committee: Jensen, 20,  
Chairperson; Byars, 30; Cunningham, 40; Erdman, 47;  
Howard, 9; Johnson, 37; Stuthman, 22

Read first time January 9, 2006

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections  
2 43-522, 43-524, 43-2505, 43-2507, 43-2508, 43-2509,  
3 43-2510, 43-2512, 43-2606, 43-3401, 43-3402, 68-1204,  
4 68-1205, 68-1206, 68-1402, 68-1403, 68-1405, 68-1503,  
5 68-1514, 68-1521, 68-1522, 68-1523, 68-1713, 68-1721,  
6 71-193.01, 71-193.02, 71-193.03, 71-2225, 71-2803,  
7 71-2804, 71-2807, 71-2810, 71-3515.01, 71-3515.02,  
8 71-3516, 71-7401, 71-7402, 71-7403, 71-7404, 71-7405,  
9 71-7406, 71-7407, 71-7408, 71-7409, 71-7410, 71-7411,  
10 71-7412, 71-7413, 71-7416, 71-7417, 71-7420, 71-7422,  
11 71-7423, 71-7424, 71-7425, 71-7426, 79-1902, 80-315,  
12 81-647, 81-668, 81-671, 81-3007.01, and 83-107.01,

1 Reissue Revised Statutes of Nebraska, sections 20-162,  
2 28-356, 28-372, 28-380, 71-113, 71-162, 71-612,  
3 71-617.15, 71-627, 71-628, 71-634, 71-801, 71-802,  
4 71-814, 71-1910, 71-1911, 71-1911.02, 71-1914, 71-1916,  
5 81-1316, 81-3008, and 81-3009, Revised Statutes  
6 Cumulative Supplement, 2004, and sections 68-1021.01,  
7 71-101, 71-1,104.01, 71-815, 71-816, 71-1721, 71-3503,  
8 and 71-3519, Revised Statutes Supplement, 2005; to define  
9 and redefine terms; to change, eliminate, and transfer  
10 provisions relating to the Wholesale Drug Distributor  
11 Licensing Act and physical therapy; to adopt the Rural  
12 Behavioral Health Training and Placement Program Act,  
13 the Immunosuppressant Drug Repository Program Act, and  
14 the Physical Therapy Practice Act; to adopt federal law  
15 by reference; to change provisions relating to child  
16 care regulation and welfare reform; to change membership  
17 on the Board of Veterinary Medicine and Surgery; to  
18 change the name of the Division of Dental Health; to  
19 transfer powers and duties to the Department of Health  
20 and Human Services Finance and Support relating to home  
21 and community-based services for the elderly and children  
22 with disabilities, medically handicapped children, early  
23 intervention services for children and families, respite  
24 lifespan services, and adult protective services; to  
25 change provisions relating to fees for vital records,

1 nurse practitioners, food programs, medical records,  
2 health information, and veterans' homes; to change and  
3 eliminate provisions relating to the Nebraska Behavioral  
4 Health Services Act and the Radiation Control Act; to  
5 provide an exemption from the State Personnel System;  
6 to create the position of system chief administrative  
7 officer for the Nebraska Health and Human Services  
8 System; to eliminate the position of Policy Secretary  
9 and the State Behavioral Health Council; to state intent  
10 and provide powers and duties relating to sudden infant  
11 death syndrome and shaken baby syndrome; to harmonize  
12 provisions; to provide operative dates; to repeal the  
13 original sections; to outright repeal sections 71-2801,  
14 71-2802, 71-2803.01, 71-2805, 71-2808, 71-2809, 71-2811,  
15 71-2812, 71-2814, 71-2815, 71-2816, 71-2817, 71-2819,  
16 71-2820, 71-2821, 71-2822, 71-2823, 71-7414, 71-7415,  
17 71-7418, 71-7419, and 71-7421, Reissue Revised Statutes  
18 of Nebraska, sections 71-819, 71-820, and 71-1917,  
19 Revised Statutes Cumulative Supplement, 2004, and section  
20 71-813, Revised Statutes Supplement, 2005; and to declare  
21 an emergency.

22 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 71-7401, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-7401~~ Sections ~~71-7401 to 71-7426~~ 1 to 37 of this act  
4 shall be known and may be cited as the Wholesale Drug Distributor  
5 Licensing Act.

6           Sec. 2. Section 71-7402, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~71-7402~~ For purposes of the Wholesale Drug Distributor  
9 Licensing Act, the definitions found in sections ~~71-7403 to 71-7413~~  
10 shall be used 3 to 20 of this act apply.

11          Sec. 3. Section 71-7403, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13          ~~71-7403~~ Blood ~~shall mean~~ means whole blood collected from  
14 a single donor and processed either for transfusion or further  
15 manufacturing.

16          Sec. 4. Section 71-7404, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18          ~~71-7404~~ Blood component ~~shall mean~~ means that part of  
19 blood separated by physical or mechanical means.

20          Sec. 5. Section 71-7405, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22          ~~71-7405~~ Board ~~shall mean~~ means the Board of Pharmacy.

23          Sec. 6. Chain pharmacy warehouse means a facility  
24 utilized as a central warehouse for intracompany sales or transfers  
25 of prescription drugs or devices by two or more pharmacies

1 operating under common ownership or common control.

2           Sec. 7. Section 71-7406, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~71-7406~~ Common control ~~shall mean~~ means that the power to  
5 direct or cause the direction of the management and policies of a  
6 person or an organization by ownership of stock or voting rights,  
7 by contract, or otherwise is held by the same person or persons.

8           Sec. 8. Section 71-7407, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           ~~71-7407~~ Department ~~shall mean~~ means the Department of  
11 Health and Human Services Regulation and Licensure.

12           Sec. 9. Section 71-7408, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~71-7408~~ Drug sample ~~shall mean~~ means a unit of a  
15 prescription drug intended to promote the sale of the drug and  
16 not intended to be sold.

17           Sec. 10. Section 71-7409, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-7409~~ Emergency medical reasons ~~shall mean~~ means the  
20 alleviation of a temporary shortage by transfers of prescription  
21 drugs between any of the following: (1) Holders of pharmacy  
22 licenses, holders of pharmacy inspection certificates (2) health  
23 care practitioner facilities as defined in section 71-414, (3)  
24 hospitals as defined in section 71-419, and (4) practitioners as  
25 defined in section 71-1,142.

1           Sec. 11. Facility means a physical structure utilized  
2 by a wholesale drug distributor for the storage, handling, or  
3 repackaging of prescription drugs or the offering of prescription  
4 drugs for sale.

5           Sec. 12. Section 71-7410, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           ~~71-7410~~ Manufacturer shall mean means any entity engaged  
8 in manufacturing, preparing, propagating, compounding, processing,  
9 packaging, repackaging, or labeling a prescription drug.

10          Sec. 13. (1) Normal distribution chain means the transfer  
11 of a prescription drug or the co-licensed product of the original  
12 manufacturer of the finished form of a prescription drug along a  
13 chain of custody directly from the manufacturer or co-licensee of  
14 such drug to a patient or ultimate consumer of such drug.

15          (2) Normal distribution chain includes transfers of a  
16 prescription drug or co-licensed product:

17          (a) From a manufacturer or co-licensee to a wholesale  
18 drug distributor, to a pharmacy, and then to a patient or a  
19 patient's agent;

20          (b) From a manufacturer or co-licensee to a wholesale  
21 drug distributor, to a pharmacy, to a health care practitioner,  
22 health care practitioner facility, or hospital, and then to a  
23 patient or a patient's agent;

24          (c) From a manufacturer or co-licensee to a wholesale  
25 drug distributor, to a chain pharmacy warehouse, to a pharmacy

1 affiliated with the chain pharmacy warehouse, and then to a patient  
2 or a patient's agent;

3 (d) From a manufacturer or co-licensee to a chain  
4 pharmacy warehouse, to a pharmacy affiliated with the chain  
5 pharmacy warehouse, and then to a patient or a patient's agent; or

6 (e) Recognized in rules and regulations adopted and  
7 promulgated by the department.

8 (3) For purposes of this section, co-licensed products  
9 means prescription drugs that have been approved by the federal  
10 Food and Drug Administration and are the subject of an arrangement  
11 by which two or more parties have the right to engage in a business  
12 activity or occupation concerning such drugs.

13 Sec. 14. Pedigree means a written or electronic  
14 documentation of every transfer of a prescription drug as provided  
15 in sections 29 and 30 of this act.

16 Sec. 15. Section 71-7411, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 ~~71-7411~~ Prescription drug shall mean means any human  
19 drug required by federal law or regulation to be dispensed  
20 only by prescription, including finished dosage forms and active  
21 ingredients subject to section 503(b) of the Federal Food, Drug,  
22 and Cosmetic Act, as such section existed on the operative date of  
23 this act.

24 Sec. 16. Repackage means repackaging or otherwise  
25 changing the container, wrapper, or labeling of a prescription drug

1 to facilitate the wholesale distribution of such drug.

2 Sec. 17. Repackager means a person who repackages.

3 Sec. 18. Section 71-7412, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-7412~~ (1) Wholesale drug distribution ~~shall mean~~ means  
6 the distribution of prescription drugs to a person other than a  
7 consumer or patient.

8 (2) Wholesale drug distribution ~~shall~~ does not include:

9 ~~(1)~~ (a) Intracompany sales ~~which shall mean~~ of  
10 prescription drugs, including any transaction or transfer between  
11 any division, subsidiary, or parent company and an affiliated or  
12 related company under common ownership or common control;

13 ~~(2)~~ The purchase or other acquisition of a drug by  
14 a hospital or other health care entity that is a member of a  
15 group purchasing organization from such organization or from other  
16 members of such organization for the use of the purchasing or  
17 acquiring hospital or entity;

18 ~~(3)~~ (b) The sale, purchase, or trade of or an offer  
19 to sell, purchase, or trade a prescription drug by a charitable  
20 organization described in section 501(c)(3) of the Internal Revenue  
21 Code, a state, a political subdivision, or ~~another~~ any other  
22 governmental agency to a nonprofit affiliate of the organization,  
23 to the extent otherwise permitted by law;

24 ~~(4)~~ (c) The sale, purchase, or trade of or an offer  
25 to sell, purchase, or trade a prescription drug among hospitals



1 or other health care entities ~~that are~~ operating under common  
2 ownership or common control;

3 ~~(5)~~ (d) The sale, purchase, or trade of or an offer to  
4 sell, purchase, or trade a prescription drug for emergency medical  
5 reasons;

6 ~~(6)~~ (e) The sale, purchase, or trade of, an offer to  
7 sell, purchase, or trade, or the dispensing of a prescription drug  
8 pursuant to a prescription;

9 ~~(7)~~ (f) The distribution of drug samples by  
10 representatives of a manufacturer or of a wholesale drug  
11 distributor; ~~or~~

12 ~~(8)~~ (g) The sale, purchase, or trade of blood and blood  
13 components intended for transfusion; or

14 (h) The delivery of or the offer to deliver a  
15 prescription drug by a common carrier solely in the usual course  
16 of business of transporting such drugs as a common carrier if the  
17 common carrier does not store, warehouse, or take legal ownership  
18 of such drugs.

19 Sec. 19. Section 71-7413, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 ~~71-7413~~ (1) Wholesale drug distributor ~~shall mean~~ means  
22 any person or entity located in this state and engaged in wholesale  
23 drug distribution in this state, including manufacturers, ~~repackers~~  
24 repackagers, own-label distributors, jobbers, private-label  
25 distributors, brokers, warehouses including manufacturer and

1 distributor warehouses, chain ~~drug~~ pharmacy warehouses, and  
2 wholesale drug warehouses, wholesale medical gas distributors,  
3 independent wholesale drug traders, and retail pharmacies that  
4 ~~conduct~~ engage in wholesale drug distribution in this state.

5 (2) Wholesale drug distributor shall does not include any  
6 a common carrier for hire or other person or entity hired solely  
7 to transport prescription drugs if the common carrier, person, or  
8 entity does not store, warehouse, or take legal ownership of such  
9 drugs.

10 Sec. 20. Wholesale medical gas distributor means any  
11 person engaged in the wholesale drug distribution of medical gases  
12 provided to suppliers or other entities licensed or otherwise  
13 authorized to use, administer, or distribute such gases.

14 Sec. 21. Section 71-7417, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 ~~71-7417~~ (1) No person ~~shall~~ or entity may act as a  
17 wholesale drug distributor in this state without first obtaining  
18 a wholesale drug distributor license from the department. If the  
19 ~~applicant is an individual, the application shall include the~~  
20 ~~applicant's social security number.~~ The department shall issue a  
21 license ~~upon the recommendation of the board that the~~ to any  
22 ~~applicant meets~~ that satisfies the requirements for licensure  
23 ~~stated in~~ under the Wholesale Drug Distributor Licensing Act.  
24 Manufacturers are exempt from any licensing and other requirements  
25 of the act to the extent not required by federal law or

1 regulation except for those requirements deemed necessary and  
2 appropriate under rules and regulations adopted and promulgated by  
3 the department. and upon payment of a fee established and collected  
4 as provided in section 71-162.

5 (2) Wholesale medical gas distributors shall be exempt  
6 from any licensing and other requirements of the Wholesale Drug  
7 Distributor Licensing Act to the extent not required under federal  
8 law but shall be licensed as wholesale drug distributors by the  
9 department for the limited purpose of engaging in the wholesale  
10 distribution of medical gases upon application to the department,  
11 payment of a licensure fee, and inspection of the applicant's  
12 facility by the department, except that the applicant may submit  
13 and the department may accept an inspection accepted in another  
14 state or an inspection conducted by a nationally recognized  
15 accreditation program approved by the board. For purposes of  
16 such licensure, wholesale medical gas distributors shall only be  
17 required to provide information required under subdivisions (1)(a)  
18 through (1)(c) of section 22 of this act. A separate wholesale drug  
19 distributor license shall be required for each facility located  
20 within this state and directly or indirectly owned or operated by  
21 the same business entity or parent entity.

22 (3) The Wholesale Drug Distributor Licensing Act does not  
23 apply to:

24 (a) An agent or employee of a licensed wholesale drug  
25 distributor need not be licensed under the act and may lawfully

1 ~~possess who possesses~~ drug samples when such agent or employee is  
2 acting in the usual course of his or her business or employment;  
3 or -

4 ~~(4) No license is required for any (b) Any person who (a)~~  
5 (i) engages in a wholesale transaction relating to the manufacture,  
6 distribution, sale, transfer, or delivery of medical gases the  
7 gross dollar value of which does not exceed five percent of the  
8 total retail sales of medical gases by such person during the  
9 immediately preceding calendar year and ~~(b)~~ (ii) has either a  
10 pharmacy permit or license or a drug dispensing permit or delegated  
11 dispensing permit.

12 ~~(5) The issuance of a license pursuant to the act shall~~  
13 ~~not change or affect tax liability to the State of Nebraska of any~~  
14 ~~wholesale drug distributor.~~

15 Sec. 22. (1) Every applicant for an initial or renewal  
16 license as a wholesale drug distributor shall file a written  
17 application with the department. The application shall be  
18 accompanied by the fee established by the department under section  
19 24 of this act and proof of bond or other security required under  
20 section 26 of this act and shall include the following information:

21 (a) The applicant's name, business address, type of  
22 business entity, and telephone number. If the applicant is a  
23 partnership, the application shall include the name of each partner  
24 and the name of the partnership. If the applicant is a corporation,  
25 the application shall include the name and title of each corporate

1 officer and director, all corporate names of the applicant, and  
2 the applicant's state of incorporation. If the applicant is a sole  
3 proprietorship, the application shall include the name of the sole  
4 proprietor and name of the proprietorship;

5 (b) All trade or business names used by the applicant;

6 (c) The addresses and telephone numbers of all facilities  
7 used by the applicant for the storage, handling, and wholesale  
8 distribution of prescription drugs and the names of persons in  
9 charge of such facilities. A separate license shall be obtained for  
10 each such facility;

11 (d) A listing of all licenses, permits, or other  
12 similar documentation issued to the applicant in any other state  
13 authorizing the applicant to purchase or possess prescription  
14 drugs;

15 (e) The names and addresses of the owner and manager  
16 of the applicant's wholesale drug distribution facilities, a  
17 designated representative at each such facility, and all managerial  
18 employees at each such facility; and

19 (f) Other information as required by the department,  
20 including affirmative evidence of the applicant's ability to comply  
21 with the Wholesale Drug Distributor Licensing Act and rules and  
22 regulations adopted and promulgated under the act.

23 (2) The department may require persons listed on the  
24 application to pass an examination approved by the department  
25 on laws pertaining to the wholesale distribution of prescription

1 drugs.

2 (3) The application shall include the applicant's social  
3 security number if the applicant is an individual. The social  
4 security number shall not be a public record and may only be used  
5 by the department for administrative purposes.

6 (4) The application shall be signed by (a) the owner, if  
7 the applicant is an individual or partnership, (b) the member, if  
8 the applicant is a limited liability company with only one member,  
9 or two of its members, if the applicant is a limited liability  
10 company with two or more members, or (c) two of its officers, if  
11 the applicant is a corporation.

12 (5) The designated representative and the supervisor  
13 of the designated representative of a wholesale drug distributor  
14 and each owner with greater than a ten percent interest in the  
15 wholesale drug distributor, if the wholesale drug distributor  
16 is a nonpublicly held company, shall be subject to a criminal  
17 history record information check and shall provide the department  
18 or the designated agent of the department with a complete set of  
19 fingerprints for such purpose if his or her fingerprints are not  
20 already on file for such purpose. The department or the designated  
21 agent of the department shall forward such fingerprints to the  
22 Nebraska State Patrol to be submitted to the Federal Bureau of  
23 Investigation for a national criminal history record information  
24 check. Such persons shall authorize the release of the results of  
25 such criminal history record information check to the department,

1 and the applicant shall pay the actual cost of such fingerprinting  
2 and such criminal history record information check.

3 (6) The department may waive certain requirements under  
4 this section upon proof satisfactory to the department that such  
5 requirements are duplicative of other requirements of law or  
6 regulation and that the granting of such exemption will not  
7 endanger the public safety.

8 Sec. 23. Each designated representative named under  
9 subdivision (1)(e) of section 22 of this act shall provide the  
10 following information prior to the issuance of an initial or  
11 renewal license under such section:

12 (1) The designated representative's places of residence  
13 for the immediately preceding seven years;

14 (2) The designated representative's date and place of  
15 birth;

16 (3) All occupations, positions of employment, and offices  
17 held by the designated representative during the immediately  
18 preceding seven years and the principal businesses and the  
19 addresses of any business, corporation, or other organization  
20 in which such occupations, positions, or offices were held;

21 (4) Whether the designated representative has been, at  
22 any time during the immediately preceding seven years, the subject  
23 of any proceeding for the revocation of any license and, if so, the  
24 nature of the proceeding and its disposition;

25 (5) Whether the designated representative has been, at

1 any time during the immediately preceding seven years, either  
2 temporarily or permanently enjoined by a court of competent  
3 jurisdiction from violations of any federal or state law regulating  
4 the possession, control, or distribution of prescription drugs,  
5 and, if so, the details of such order;

6 (6) A description of any involvement by the designated  
7 representative during the immediately preceding seven years, other  
8 than the ownership of stock in a publicly traded company or  
9 mutual fund, with any business which manufactured, administered,  
10 distributed, or stored prescription drugs and any lawsuits in which  
11 such businesses were named as a party;

12 (7) Whether the designated representative has ever been  
13 convicted of any felony and details relating to such conviction;  
14 and

15 (8) A photograph of the designated representative taken  
16 within the immediately preceding thirty days.

17 Sec. 24. (1) Licensure activities under the Wholesale  
18 Drug Distributor Licensing Act shall be funded by license fees. An  
19 applicant for an initial or renewal license under the act shall pay  
20 a license fee as provided in this section.

21 (2) License fees shall include (a) a base fee of fifty  
22 dollars and (b) an additional fee of not more than five hundred  
23 dollars based on variable costs to the department of inspections  
24 and of receiving and investigating complaints, other similar direct  
25 and indirect costs, and other relevant factors as determined by the



1 department.

2 (3) If the licensure application is denied, the license  
3 fee shall be returned to the applicant, except that the department  
4 may retain up to twenty-five dollars as an administrative fee  
5 and may retain the entire license fee if an inspection has been  
6 completed prior to such denial.

7 (4) The department shall also collect a fee for  
8 reinstatement of a license that has lapsed or has been suspended or  
9 revoked. The department shall collect a fee of ten dollars for a  
10 duplicate original license.

11 (5) The department shall remit all license fees collected  
12 under this section to the State Treasurer for credit to the  
13 Department of Health and Human Services Regulation and Licensure  
14 Cash Fund. License fees collected under this section shall only  
15 be used for activities related to the licensure of wholesale drug  
16 distributors.

17 Sec. 25. Section 71-7420, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 ~~71-7420~~ A wholesale drug distributor license shall expire  
20 on July 1 of each year and may be renewed. The license shall not  
21 be transferable. The annual renewal fee shall be established and  
22 collected as provided in section 71-162. The department shall mail  
23 an application for renewal to each licensee not later than June 1  
24 of each year. If an application for renewal is received from the  
25 licensee after July 1, the department may impose a late fee as

1 ~~provided in section 71-162 and the department shall refuse to issue~~  
2 ~~the license until such late fee is paid in addition to the and~~  
3 ~~renewal fee are paid.~~ Failure to receive an application for renewal  
4 shall not relieve the licensee from the late fee imposed by this  
5 section.

6           Sec. 26. An applicant for an initial or renewal license  
7 as a wholesale drug distributor shall submit to the department  
8 proof of a bond of not less than one hundred thousand dollars or  
9 other equivalent means of security acceptable to the department.  
10 The bond or other security shall be given for the purpose of  
11 securing payment of any fines or other penalties imposed by  
12 the department and any fees or costs incurred by the department  
13 relating to such applicant as authorized under the Wholesale Drug  
14 Distributor Licensing Act or rules and regulations adopted and  
15 promulgated under the act which remain unpaid by the applicant  
16 within thirty days after such fines, penalties, and costs become  
17 final. The department may make a claim against such bond or  
18 security until one year after the expiration of the license issued  
19 to the applicant under the act.

20           Sec. 27. Section 71-7424, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           ~~71-7424 (1)~~ The department may conduct inspections during  
23 normal business hours upon premises purporting or appearing to  
24 be used by a wholesale drug distributor in this state. Persons  
25 conducting such inspections shall show appropriate identification

1 prior to being permitted access to a wholesale drug distributor's  
2 premises and delivery vehicles.

3       ~~(2) A wholesale drug distributor may keep records~~  
4 ~~regarding purchases and sales at a location apart from its~~  
5 ~~principal office or the location at which the drugs are stored~~  
6 ~~and from which they are shipped, if the records can be made~~  
7 ~~available for inspection within two working days after a request~~  
8 ~~by the department and the board. The records may be kept in any~~  
9 ~~form permissible under federal law applicable to record keeping~~  
10 ~~for prescription drugs.~~ (1) Each wholesale drug distributor doing  
11 business in this state shall be inspected by the department or a  
12 nationally recognized accreditation program that is approved by the  
13 board and that is acting on behalf of the department prior to the  
14 issuance of an initial or renewal license by the department under  
15 section 22 of this act.

16       (2) The department or such nationally recognized  
17 accreditation program may provide for the inspection of any  
18 wholesale drug distributor licensed to engage in wholesale drug  
19 distribution in this state in such manner and at such times as  
20 provided in rules and regulations adopted and promulgated by the  
21 department. As part of any such inspection, the department may  
22 require an analysis of suspected prescription drugs to determine  
23 authenticity.

24       (3) The department may accept an inspection accepted in  
25 another state in lieu of an inspection by the department or a

1 nationally recognized accreditation program under this section.

2 (4) The department or such nationally recognized  
3 accreditation program may charge and collect fees for inspection  
4 activities conducted under this section.

5 (5) In addition to or in lieu of the authority to  
6 inspect for purposes of licensure and renewal, the department may  
7 adopt and promulgate rules and regulations which permit the use  
8 of alternative methods for assessing the compliance by a wholesale  
9 drug distributor with the Wholesale Drug Distributor Licensing Act  
10 and the rules and regulations adopted and promulgated under the  
11 act.

12 Sec. 28. Section 71-7416, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-7416~~ (1) No wholesale drug distributor, manufacturer,  
15 or pharmacy shall knowingly purchase or receive any prescription  
16 drug from any source other than a person or entity licensed  
17 ~~pursuant to~~ under the Wholesale Drug Distributor Licensing Act  
18 except transfers for emergency medical reasons, the gross dollar  
19 value of which shall not exceed five percent of the total  
20 prescription drug sales revenue of the transferor or transferee  
21 holder of a pharmacy license, ~~holder of a pharmacy inspection~~  
22 ~~certificate,~~ or practitioner as defined in section 71-1,142 during  
23 the immediately preceding calendar year, and except as otherwise  
24 provided in the act.

25 (2) A wholesale drug distributor may receive returns or

1 exchanges of prescription drugs from a pharmacy, chain pharmacy  
2 warehouse, health care practitioner facility as defined in section  
3 71-414, or hospital as defined in section 71-419 pursuant to  
4 the terms and conditions agreed upon between such wholesale drug  
5 distributor and such pharmacy, chain pharmacy warehouse, health  
6 care practitioner facility, or hospital. Such returns and exchanges  
7 shall not be subject to sections 29 to 31 of this act. A  
8 wholesale drug distributor shall not receive from a pharmacy, chain  
9 pharmacy warehouse, health care practitioner facility, or hospital  
10 an amount or quantity of a prescription drug greater than the  
11 amount or quantity that was originally sold by the wholesale drug  
12 distributor to such pharmacy, chain pharmacy warehouse, health care  
13 practitioner facility, or hospital.

14 (3) A manufacturer or wholesale drug distributor shall  
15 furnish prescription drugs only to persons licensed by the  
16 department and shall verify such licensure before furnishing  
17 prescription drugs to a person not known to the manufacturer  
18 or wholesale drug distributor.

19 (4) Prescription drugs furnished by a manufacturer or  
20 wholesale drug distributor shall be delivered only to the premises  
21 listed on the license, except that a manufacturer or wholesale drug  
22 distributor may furnish prescription drugs to a person licensed  
23 by the department or his or her agent at the premises of the  
24 manufacturer or wholesale drug distributor if:

25 (a) The identity and authorization of the recipient is

1 properly established; and

2 (b) This method of receipt is employed only to meet  
3 the prescription drug needs of a particular patient of the person  
4 licensed by the department.

5 (5) Prescription drugs may be furnished to a hospital  
6 pharmacy receiving area. Receipt of such drugs shall be  
7 acknowledged by written receipt signed by a pharmacist or other  
8 authorized personnel. The receipt shall contain the time of  
9 delivery and the type and quantity of the prescription drug  
10 received. Any discrepancy between the signed receipt and the type  
11 and quantity of prescription drug actually received shall be  
12 reported by the receiving authorized pharmacy personnel to the  
13 delivering manufacturer or wholesale drug distributor by the next  
14 business day after the delivery to the pharmacy receiving area.

15 (6) A manufacturer or wholesale drug distributor shall  
16 only accept payment or allow the use of credit to establish an  
17 account for the purchase of prescription drugs from the owner  
18 or owners of record, the chief executive officer, or the chief  
19 financial officer listed on the license of a person or entity  
20 legally authorized to receive prescription drugs. Any account  
21 established for the purchase of prescription drugs shall bear the  
22 name of such licensee.

23 Sec. 29. (1) A wholesale drug distributor engaged in  
24 the wholesale distribution of prescription drugs in this state  
25 shall establish and maintain accurate records of all transactions

1 regarding the receipt and distribution or other disposition of  
2 prescription drugs as provided in this section.

3 (2) The department shall adopt and promulgate rules and  
4 regulations to require that all prescription drugs that leave the  
5 normal distribution chain be accompanied by a paper or electronic  
6 pedigree as provided in section 30 of this act. Such rules and  
7 regulations shall be adopted and promulgated no later than July 1,  
8 2007.

9 (3) The department shall develop standards and  
10 requirements for electronic pedigrees in order to effectively  
11 authenticate, track, and trace prescription drugs. Prior to the  
12 development of such standards and requirements, the department  
13 shall consult with the federal Food and Drug Administration,  
14 manufacturers, wholesale drug distributors, pharmacies, and other  
15 interested parties regarding the feasibility and the ways,  
16 means, and practicality of requiring that all prescription drugs  
17 that leave the normal distribution chain be accompanied by an  
18 electronic pedigree. The standards and requirements may prescribe  
19 the information required to be included as part of the electronic  
20 pedigree. Such standards and requirements shall be developed no  
21 later than July 1, 2008. All prescription drugs that leave the  
22 normal distribution chain shall not be required to be accompanied  
23 solely by an electronic pedigree prior to such date.

24 (4) A retail pharmacy or chain pharmacy warehouse shall  
25 comply with the requirements of this section only if the pharmacy

1 or chain pharmacy warehouse engages in the wholesale distribution  
2 of prescription drugs in this state.

3 (5) A wholesale drug distributor, other than the original  
4 manufacturer of the finished form of the prescription drug, shall  
5 verify all transactions listed on the pedigree before attempting to  
6 further distribute such drug.

7 Sec. 30. (1) The pedigree required under section 29  
8 of this act shall include all necessary identifying information  
9 concerning each sale or other transfer in the chain of distribution  
10 of the prescription drug from the manufacturer, through acquisition  
11 and sale by any wholesale drug distributor or repackager,  
12 until final sale to a pharmacy or other person dispensing or  
13 administering such drug, including, but not limited to:

14 (a) Name of the prescription drug;

15 (b) Dosage form and strength of the prescription drug;

16 (c) Size of the container;

17 (d) Number of containers;

18 (e) Lot number of the prescription drug;

19 (f) Name of the original manufacturer of the finished  
20 dosage form of the prescription drug;

21 (g) Name, address, telephone number, and if available,  
22 the email address of each owner of the prescription drug and  
23 each wholesale drug distributor who does not take title to the  
24 prescription drug;

25 (h) Name and address of each location from which the



- 1 prescription drug was shipped if different from the owner's;  
2 (i) Transaction dates;  
3 (j) Certification that each recipient has authenticated  
4 the pedigree;  
5 (k) Name of any repackager, if applicable; and  
6 (l) Name and address of person certifying the delivery.  
7 (2) Each paper or electronic pedigree shall be maintained  
8 by the purchaser and the wholesale drug distributor for three years  
9 from the date of sale or transfer and available for inspection or  
10 use upon request of law enforcement or an authorized agent of the  
11 department.

12 Sec. 31. Section 71-7423, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-7423~~ (1) A wholesale drug distributor license may  
15 be denied, refused renewal, suspended, limited, or revoked by  
16 the Director of Regulation and Licensure when the director finds  
17 that the applicant or licensee has violated any provisions of  
18 the Wholesale Drug Distributor Licensing Act or of the rules and  
19 regulations adopted and promulgated under the act or has committed  
20 any acts or offenses set forth in section 71-147 or 71-148 or  
21 section 33 of this act. All actions and proceedings shall be  
22 carried out as specified in sections 71-147 to 71-161.19.

23 (2) For purposes of this section, applicant or licensee  
24 ~~shall include~~ includes, but is not ~~be~~ limited to, the board of  
25 directors, chief executive officer, and other officers of the

1 applicant or the entity to which the license is issued and the  
2 manager of each site if more than one site is located in this  
3 state.

4 Sec. 32. Section 71-7425, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 ~~71-7425~~ The department, the Attorney General, or any  
7 county attorney may institute an action in the name of the  
8 state for an injunction or other process against any person to  
9 restrain or prevent any violation of the Wholesale Drug Distributor  
10 Licensing Act or any rules and regulations adopted ~~pursuant to~~ and  
11 promulgated under the act.

12 Sec. 33. Section 71-7426, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-7426~~ (1) The department, upon issuance of a final  
15 disciplinary action against a person who violates any provision  
16 of section ~~71-7416~~ 28 of this act, shall assess a fine of one  
17 thousand dollars against such person. For each subsequent final  
18 disciplinary action for violation of such section issued by the  
19 department against such person, the department shall assess a fine  
20 of one thousand dollars plus one thousand dollars for each final  
21 disciplinary action for violation of such section previously issued  
22 against such person, not to exceed ten thousand dollars.

23 (2) The department, upon issuance of a final disciplinary  
24 action against a person who fails to provide an authorized person  
25 the right of entry provided in section ~~71-7424~~ 27 of this act,

1 shall assess a fine of five hundred dollars against such person.  
2 For each subsequent final disciplinary action for such failure  
3 issued against such person, the department shall assess a fine  
4 equal to one thousand dollars times the number of such disciplinary  
5 actions, not to exceed ten thousand dollars. All fines collected  
6 under this section shall be remitted to the State Treasurer for  
7 ~~credit to the permanent school fund~~ distribution in accordance with  
8 Article VII, section 5, of the Constitution of Nebraska.

9           Sec. 34. (1) If the department finds there is a  
10 reasonable probability that (a) a wholesale drug distributor  
11 has falsified a pedigree or has sold, distributed, transferred,  
12 manufactured, repackaged, handled, or held a counterfeit  
13 prescription drug intended for human use and (b) such drug could  
14 cause serious, adverse health consequences or death, the department  
15 shall issue an order to immediately cease distribution of such  
16 drug.

17           (2) Persons subjected to any order issued by the  
18 department under this section shall be provided with notice and  
19 an opportunity for an informal hearing to be held not later than  
20 ten days after the date the order was issued. If the department  
21 determines, after such hearing, that inadequate grounds exist to  
22 support the actions required by the order, the department shall  
23 vacate the order.

24           Sec. 35. It is unlawful for any person to commit or to  
25 permit, cause, aid, or abet the commission of any of the following

1 acts in this state:

2 (1) Any violation of the Wholesale Drug Distributor  
3 Licensing Act or rules and regulations adopted and promulgated  
4 under the act;

5 (2) Providing the department, any of its representatives,  
6 or any federal official with false or fraudulent records or making  
7 false or fraudulent statements regarding any matter under the act;

8 (3) Obtaining or attempting to obtain a prescription  
9 drug by fraud, deceit, or misrepresentation or engaging in  
10 misrepresentation or fraud in the distribution of a prescription  
11 drug;

12 (4) Except for the wholesale distribution by  
13 manufacturers of a prescription drug that has been delivered into  
14 commerce pursuant to an application approved under federal law  
15 by the federal Food and Drug Administration, the manufacture,  
16 repackaging, sale, transfer, delivery, holding, or offering for  
17 sale of any prescription drug that is adulterated, misbranded,  
18 counterfeit, suspected of being counterfeit, or otherwise rendered  
19 unfit for distribution;

20 (5) Except for the wholesale distribution by  
21 manufacturers of a prescription drug that has been delivered into  
22 commerce pursuant to an application approved under federal law  
23 by the federal Food and Drug Administration, the adulteration,  
24 misbranding, or counterfeiting of any prescription drug;

25 (6) The receipt of any prescription drug that is

1 adulterated, misbranded, stolen, obtained by fraud or deceit,  
2 counterfeit, or suspected of being counterfeit, and the delivery or  
3 proffered delivery of such drug for pay or otherwise; and

4 (7) The alteration, mutilation, destruction,  
5 obliteration, or removal of the whole or any part of the labeling  
6 of a prescription drug or the commission of any other act with  
7 respect to a prescription drug that results in the prescription  
8 drug being misbranded.

9 Sec. 36. Any person who knowingly and intentionally  
10 engages in wholesale drug distribution in this state in violation  
11 of the Wholesale Drug Distributor Licensing Act is guilty of a  
12 Class III felony.

13 Sec. 37. Section 71-7422, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~71-7422~~ The department, upon the recommendation of the  
16 board, shall adopt and promulgate rules and regulations to carry  
17 out the Wholesale Drug Distributor Licensing Act.

18 Sec. 38. Sections 38 to 41 of this act shall be known and  
19 may be cited as the Rural Behavioral Health Training and Placement  
20 Program Act.

21 Sec. 39. The Legislature hereby finds and declares that:

22 (1) Eighty-eight of Nebraska's ninety-three counties are  
23 classified as mental and behavioral health profession shortage  
24 areas by the federal Health Resources and Services Administration  
25 and the Nebraska Department of Health and Human Services;

1           (2) The Department of Health and Human Services  
2 Regulation and Licensure reports that seventy-four percent of the  
3 state's psychiatrists, psychologists, and licensed mental health  
4 practitioners live and practice in the urban areas of Omaha and  
5 Lincoln, which leaves the remaining seventy-two thousand square  
6 miles of Nebraska to be covered by approximately one-fourth of the  
7 professionals licensed to practice behavioral health in Nebraska;

8           (3) Thirty-eight Nebraska counties have one or no  
9 licensed behavioral health professional; and

10           (4) Reductions in federal funding will result in the  
11 elimination of over five thousand five hundred behavioral health  
12 patient visits in rural Nebraska.

13           Sec. 40. The Rural Behavioral Health Training and  
14 Placement Program is created and shall be administered by the  
15 Munroe-Meyer Institute at the University of Nebraska Medical  
16 Center. The program shall address behavioral health professional  
17 shortages in rural areas by:

18           (1) Offering service learning opportunities for  
19 behavioral health professionals to provide integrated mental health  
20 services in rural areas;

21           (2) Educating physicians to integrate behavioral health  
22 into primary care practice;

23           (3) Providing outreach clinical training opportunities  
24 in rural areas for interns, fellows, and graduate students from  
25 public and private universities and colleges in Nebraska that offer

1 behavioral health graduate education; and

2 (4) Placing program graduates in primary care practices  
3 for the purpose of providing behavioral health patient visits.

4 Sec. 41. Funding under the Rural Behavioral Health  
5 Training and Placement Program Act shall support:

6 (1) Faculty clinical training activities;

7 (2) Internship stipends for behavioral health interns and  
8 postdoctoral fellows; and

9 (3) Training and service provision expenses, including,  
10 but not limited to, travel to rural clinic sites, equipment,  
11 clinic space, patient-record management, scheduling, and telehealth  
12 supervision.

13 Sec. 42. Sections 42 to 49 of this act shall be known and  
14 may be cited as the Immunosuppressant Drug Repository Program Act.

15 Sec. 43. For purposes of the Immunosuppressant Drug  
16 Repository Program Act:

17 (1) Department means the Department of Health and Human  
18 Services Regulation and Licensure;

19 (2) Immunosuppressant drug means anti-rejection drugs  
20 that are used to reduce the body's immune system response to  
21 foreign material and inhibit a transplant recipient's immune system  
22 from rejecting a transplanted organ. Immunosuppressant drugs are  
23 available only as prescription drugs and come in tablet, capsule,  
24 and liquid forms. The recommended dosage depends on the type  
25 and form of immunosuppressant drug and the purpose for which

1 it is being used. Immunosuppressant drug does not include drugs  
2 prescribed for inpatient use;

3 (3) Participant means a transplant center that has  
4 elected to voluntarily participate in the program, that has  
5 submitted written notification to the department of its intent  
6 to participate in the program, and that accepts donated  
7 immunosuppressant drugs under the rules and regulations adopted and  
8 promulgated by the department for the program;

9 (4) Prescribing practitioner means a health care  
10 practitioner licensed under the Uniform Licensing Law who is  
11 authorized to prescribe immunosuppressant drugs;

12 (5) Prescription drug has the definition found in section  
13 71-1,142;

14 (6) Program means the immunosuppressant drug repository  
15 program established pursuant to section 44 of this act;

16 (7) Transplant center means a hospital that operates  
17 an organ transplant program, including qualifying patients for  
18 transplant, registering patients on the national waiting list,  
19 performing transplant surgery, and providing care before and after  
20 transplant; and

21 (8) Transplant program means the organ-specific facility  
22 within a transplant center. A transplant center may have transplant  
23 programs for the transplantation of hearts, lungs, livers, kidneys,  
24 pancreata, or intestines.

25 Sec. 44. The department shall establish an



1 immunosuppressant drug repository program for accepting donated  
2 immunosuppressant drugs and dispensing such drugs. Participation in  
3 the program shall be voluntary.

4       Sec. 45. Any person or entity, including, but not limited  
5 to, an immunosuppressant drug manufacturer or transplant center,  
6 may donate immunosuppressant drugs to a participant or return  
7 previously prescribed immunosuppressant drugs to the transplant  
8 center where they were originally prescribed.

9       Sec. 46. (1) An immunosuppressant drug shall only be  
10 accepted or dispensed under the program if such drug is in  
11 its original, unopened, sealed, and tamper-evident packaging.  
12 An immunosuppressant drug packaged in single unit doses may be  
13 accepted and dispensed if the outside packaging is opened but  
14 the single-unit-dose packaging is unopened. There shall be no  
15 limitation on the number of doses that can be donated to the  
16 program as long as the donated drugs meet the requirements of this  
17 section.

18       (2) An immunosuppressant drug shall not be accepted or  
19 dispensed under the program if (a) such drug bears an expiration  
20 date prior to the date of donation or (b) such drug is adulterated  
21 or misbranded as described in section 71-2401 or 71-2402.

22       (3) Subject to limitations provided in this section,  
23 unused immunosuppressant drugs dispensed under the medical  
24 assistance program may be accepted and dispensed under the  
25 immunosuppressant drug repository program.

1           Sec. 47. (1) A participant shall comply with all  
2 applicable provisions of state and federal law relating to the  
3 storage, distribution, and dispensing of donated immunosuppressant  
4 drugs and shall inspect all such drugs prior to dispensing to  
5 determine if the drugs are adulterated or misbranded as described  
6 in section 71-2401 or 71-2402 or if the drugs bear an expiration  
7 date prior to the date of dispensing. Such drugs shall only  
8 be dispensed pursuant to a prescription issued by a prescribing  
9 practitioner. Such drugs may be distributed to another participant  
10 for dispensing.

11           (2) Immunosuppressant drugs donated under the program  
12 shall not be resold.

13           Sec. 48. The department, upon the recommendation of the  
14 Board of Pharmacy, shall adopt and promulgate rules and regulations  
15 to carry out the Immunosuppressant Drug Repository Program Act.  
16 Such rules and regulations shall include, but not be limited to:

17           (1) Eligibility criteria and other standards and  
18 procedures for participants that accept and distribute or dispense  
19 donated immunosuppressant drugs;

20           (2) Necessary forms for administration of the program,  
21 including, but not limited to, forms for use by persons or entities  
22 that donate, accept, distribute, or dispense immunosuppressant  
23 drugs under the program. The forms shall include the name of the  
24 person to whom the drug was originally prescribed; and

25           (3)(a) Categories of immunosuppressant drugs that may

1 be donated or returned under the program and (b) categories of  
2 immunosuppressant drugs that cannot be donated or returned under  
3 the program and the reason that such drugs cannot be donated or  
4 returned.

5           Sec. 49. (1) Any person or entity, including an  
6 immunosuppressant drug manufacturer, which exercises reasonable  
7 care in donating, accepting, distributing, or dispensing  
8 immunosuppressant drugs under the Immunosuppressant Drug Repository  
9 Program Act or rules and regulations adopted and promulgated under  
10 the act shall be immune from civil or criminal liability or  
11 professional disciplinary action of any kind for any injury, death,  
12 or loss to person or property relating to such activities.

13           (2) Notwithstanding subsection (1) of this section, the  
14 donation of an immunosuppressant drug by a drug manufacturer does  
15 not absolve the manufacturer of any criminal or civil liability  
16 that would have existed but for the donation, nor shall such  
17 donation increase the liability of such drug manufacturer that  
18 would have existed but for the donation.

19           Sec. 50. Section 20-162, Revised Statutes Cumulative  
20 Supplement, 2004, is amended to read:

21           20-162 For purposes of sections 20-161 to 20-166, unless  
22 the context otherwise requires:

23           (1) Complaint shall mean any oral or written allegation  
24 by a person with a developmental disability or a mentally ill  
25 individual, the parent or guardian of such persons, a state agency,

1 or any other responsible named individual or entity to the effect  
2 that the person with developmental disabilities or the mentally ill  
3 individual is being subjected to injury or deprivation with regard  
4 to his or her health, safety, welfare, rights, or level of care;

5 (2) Developmental disability shall mean a severe chronic  
6 mental or physical disability as defined in the Developmental  
7 Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000 et  
8 seq., as amended;

9 (3) Facility for mentally ill individuals shall mean  
10 any place within Nebraska where a mentally ill individual is an  
11 inpatient or a resident and that is organized to provide treatment,  
12 shelter, food, care, or supervision including, but not limited to,  
13 those facilities described in the Health Care Facility Licensure  
14 Act and sections 71-1901 to ~~71-1917~~ 71-1916, 83-107.01, and 83-108;

15 (4) Facility for persons with developmental disabilities  
16 shall mean a facility or a specified portion of a facility designed  
17 primarily for the delivery of one or more services to persons  
18 with one or more developmental disabilities including, but not  
19 limited to, those facilities described in the Health Care Facility  
20 Licensure Act and sections 71-1901 to ~~71-1917~~ 71-1916, 83-107.01,  
21 and 83-108 whenever a person with a developmental disability is  
22 residing in such facility;

23 (5) Mentally ill individual shall mean an individual  
24 who has a significant mental illness or emotional impairment as  
25 determined by a mental health professional qualified under the

1 laws, rules, and regulations of this state and who is an inpatient  
2 or resident in a facility for mentally ill individuals;

3 (6) Protection and advocacy system shall mean the entity  
4 designated pursuant to the Developmental Disabilities Assistance  
5 and Bill of Rights Act, 42 U.S.C. 6000 et seq., as amended;

6 (7) Records shall mean all information and data  
7 obtained, collected, or maintained by a facility for persons  
8 with developmental disabilities or a facility for mentally ill  
9 individuals in the course of providing services to such persons  
10 which are reasonably related to the complaint to be investigated;  
11 and

12 (8) Services for persons with developmental disabilities  
13 shall mean services as defined in the Developmental Disabilities  
14 Assistance and Bill of Rights Act, 42 U.S.C. 6000 et seq., as  
15 amended.

16 Sec. 51. Section 28-356, Revised Statutes Cumulative  
17 Supplement, 2004, is amended to read:

18 28-356 Department shall mean the Department of Health and  
19 Human Services Finance and Support.

20 Sec. 52. Section 28-372, Revised Statutes Cumulative  
21 Supplement, 2004, is amended to read:

22 28-372 (1) When any physician, psychologist, physician  
23 assistant, nurse, nursing assistant, other medical, developmental  
24 disability, or mental health professional, law enforcement  
25 personnel, caregiver or employee of a caregiver, operator or

1 employee of a sheltered workshop, owner, operator, or employee  
2 of any facility licensed by the Department of Health and Human  
3 Services Regulation and Licensure, or human services professional  
4 or paraprofessional not including a member of the clergy has  
5 reasonable cause to believe that a vulnerable adult has been  
6 subjected to abuse or observes such adult being subjected to  
7 conditions or circumstances which reasonably would result in abuse,  
8 he or she shall report the incident or cause a report to be made  
9 to the appropriate law enforcement agency or to the ~~department~~  
10 Department of Health and Human Services Finance and Support. Any  
11 other person may report abuse if such person has reasonable cause  
12 to believe that a vulnerable adult has been subjected to abuse or  
13 observes such adult being subjected to conditions or circumstances  
14 which reasonably would result in abuse.

15 (2) Such report may be made by telephone, with the  
16 caller giving his or her name and address, and, if requested by  
17 the department, shall be followed by a written report within  
18 forty-eight hours. To the extent available the report shall  
19 contain: (a) The name, address, and age of the vulnerable adult;  
20 (b) the address of the caregiver or caregivers of the vulnerable  
21 adult; (c) the nature and extent of the alleged abuse or the  
22 conditions and circumstances which would reasonably be expected to  
23 result in such abuse; (d) any evidence of previous abuse including  
24 the nature and extent of the abuse; and (e) any other information  
25 which in the opinion of the person making the report may be helpful

1 in establishing the cause of the alleged abuse and the identity of  
2 the perpetrator or perpetrators.

3 (3) Any law enforcement agency receiving a report of  
4 abuse shall notify the department no later than the next working  
5 day by telephone or mail.

6 (4) A report of abuse made to the department which was  
7 not previously made to or by a law enforcement agency shall be  
8 communicated to the appropriate law enforcement agency by the  
9 department no later than the next working day by telephone or mail.

10 (5) The department shall establish a statewide toll-free  
11 number to be used by any person any hour of the day or night and  
12 any day of the week to make reports of abuse.

13 Sec. 53. Section 28-380, Revised Statutes Cumulative  
14 Supplement, 2004, is amended to read:

15 28-380 At any time subsequent to the completion of the  
16 department's investigation, if a vulnerable adult, the guardian  
17 of a vulnerable adult, or a person who allegedly abused a  
18 vulnerable adult and who is mentioned in a report believes the  
19 information in the report is inaccurate or being maintained in a  
20 manner inconsistent with the Adult Protective Services Act, such  
21 person may request the department to amend or expunge identifying  
22 information from the report or remove the record of such report  
23 from the registry. If the department refuses to do so or does  
24 not act within thirty days, the vulnerable adult or person who  
25 allegedly abused a vulnerable adult shall have the right to a

1 hearing to determine whether the record of the report should be  
2 amended, expunged, or removed on the grounds that it is inaccurate  
3 or that it is being maintained in a manner inconsistent with such  
4 act. Such hearing shall be held within a reasonable time after  
5 a request is made and at a reasonable place and hour. At the  
6 hearing the burden of proving the accuracy and consistency of the  
7 record shall be on the department. The hearing shall be conducted  
8 by the Director of ~~Health and Human Services~~ Finance and Support  
9 or his or her designated representative, who is hereby authorized  
10 and empowered to order the amendment, expunction, or removal of  
11 the record to make such record accurate or consistent with the  
12 requirements of the Adult Protective Services Act. The decision  
13 shall be made in writing within thirty days of the close of  
14 the hearing and shall state the reasons upon which it is based.  
15 Decisions of the department may be appealed, and the appeal shall  
16 be in accordance with the Administrative Procedure Act.

17           Sec. 54. Section 43-522, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           43-522 The ~~Department of Health and Human Services~~  
20 ~~through its director~~ Director of Finance and Support shall  
21 expend state assistance funds allocated for medically handicapped  
22 children to supplement other state, county, and municipal,  
23 benevolent, fraternal, and charitable expenditures, to extend  
24 and improve, especially in rural areas and in areas suffering  
25 from severe economic distress, services for locating physically



1 and medically handicapped children and for providing medical,  
2 surgical, correction, and other services and care, and facilities  
3 for diagnosis, hospitalization, and aftercare, for children who  
4 are physically or medically handicapped or who are suffering  
5 from conditions which lead to medical handicaps. Expenditures and  
6 services shall be uniformly distributed so far as possible or  
7 practicable under conditions and circumstances which may be found  
8 to exist.

9           Sec. 55. Section 43-524, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           43-524 The Director of ~~Health and Human Services~~ Finance  
12 and Support shall cooperate with medical, health, nursing, and  
13 welfare groups and organizations and with any agency in the state  
14 charged with providing for local rehabilitation of physically  
15 handicapped children.

16           Sec. 56. Section 43-2505, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-2505 For purposes of the Early Intervention Act:

19           (1) Collaborating agencies means the Department of Health  
20 and Human Services, the Department of Health and Human Services  
21 Finance and Support, and the State Department of Education;

22           (2) Developmental delay has the definition found in  
23 section 79-1118.01;

24           (3) Early intervention services may include services  
25 which:

1           (a) Are designed to meet the developmental needs of each  
2 eligible infant or toddler with disabilities and the needs of the  
3 family related to enhancing the development of their infant or  
4 toddler;

5           (b) Are selected in collaboration with the parent or  
6 guardian;

7           (c) Are provided in accordance with an individualized  
8 family service plan;

9           (d) Meet all applicable federal and state standards; and

10          (e) Are provided, to the maximum extent appropriate, in  
11 natural environments including the home and community settings in  
12 which infants and toddlers without disabilities participate;

13          (4) Eligible infant or toddler with disabilities means a  
14 child who needs early intervention services and is two years of age  
15 or younger, except that toddlers who reach age three during the  
16 school year shall remain eligible throughout that school year. The  
17 need for early intervention services is established when the infant  
18 or toddler experiences developmental delays or any of the other  
19 disabilities described in the Special Education Act;

20          (5) Federal early intervention program means the  
21 federal early intervention program for infants and toddlers with  
22 disabilities, 20 U.S.C. 1471 to 1485;

23          (6) Individualized family service plan means the process,  
24 periodically documented in writing, of determining appropriate  
25 early intervention services for an eligible infant or toddler with

1 disabilities and his or her family;

2 (7) Interagency planning team means an organized group of  
3 interdisciplinary, interagency representatives, community leaders,  
4 and family members in each local community or region;

5 (8) Lead agency or agencies means the Department of  
6 Health and Human Services, the Department of Health and Human  
7 Services Finance and Support, the and State Department of  
8 Education, and any other agencies designated by the Governor for  
9 general administration, supervision, and monitoring of programs  
10 and activities receiving federal funds under the federal early  
11 intervention program and state funds appropriated for early  
12 intervention services under the Early Intervention Act; and

13 (9) Services coordination means a flexible process of  
14 interaction facilitated by a services coordinator to assist the  
15 family of an eligible infant or toddler with disabilities within  
16 a community to identify and meet their needs pursuant to the  
17 act. Services coordination under the act shall not duplicate  
18 any case management services which an eligible infant or toddler  
19 with disabilities and his or her family are already receiving or  
20 eligible to receive from other sources.

21 Sec. 57. Section 43-2507, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-2507 (1) Planning for early intervention services  
24 shall be the responsibility of each collaborating agency. The  
25 planning shall address a statewide system of comprehensive,

1 coordinated, family-centered, community-based, and culturally  
2 competent early intervention services to all eligible infants or  
3 toddlers with disabilities and their families in Nebraska. The  
4 statewide system shall include the following minimum components:

5 (a) A public awareness program, including a central  
6 directory;

7 (b) A comprehensive early identification system,  
8 including a system for identifying children and making referrals  
9 for infants or toddlers who may be eligible for early intervention  
10 services;

11 (c) Common intake, referral, and assessment processes,  
12 procedures, and forms to determine eligibility of infants and  
13 toddlers and their families referred for early intervention  
14 services;

15 (d) An individualized family service plan, including  
16 services coordination, for each eligible infant or toddler with  
17 disabilities and his or her family;

18 (e) A comprehensive system of personnel development;

19 (f) A uniform computer data base and reporting system  
20 which crosses agency lines; and

21 (g) Services coordination to access the following early  
22 intervention services: Audiology; family training, counseling, and  
23 home visits; health services; medical services only for diagnostic  
24 or evaluation purposes; nursing services; nutrition services;  
25 occupational therapy; physical therapy; psychological services;

1 social work services; special instruction; speech-language  
2 pathology; transportation and related costs that are necessary to  
3 enable an eligible infant or toddler with disabilities and his  
4 or her family to receive early intervention services; assistive  
5 technology devices and assistive technology services; vision  
6 services; and hearing services.

7 (2) Collaborating agencies shall review standards to  
8 ensure that personnel are appropriately and adequately prepared and  
9 trained to carry out the Early Intervention Act.

10 (3) Collaborating agencies shall be responsible for  
11 designing, supporting, and implementing a statewide training  
12 and technical assistance plan which shall address preservice,  
13 inservice, and leadership development for service providers and  
14 parents of eligible infants and toddlers with disabilities.

15 (4) Policies and procedures shall be jointly examined and  
16 analyzed by the collaborating agencies to satisfy data collection  
17 requirements under the federal early intervention program and to  
18 assure the confidentiality of the data contained in the statewide  
19 system. Notwithstanding any other provision of state law, the  
20 collaborating agencies shall be permitted to share information and  
21 data necessary to carry out the provisions of the federal early  
22 intervention program, including the personal identification or  
23 other specific information concerning individual infants, toddlers,  
24 or their families, except that the vital and medical records  
25 and health information concerning individuals provided to the

1 Department of Health and Human Services or the Department of Health  
2 and Human Services Finance and Support may be released only under  
3 the laws authorizing the provision of such records and information.  
4 Nothing in this section shall prohibit the use of such data to  
5 provide for the preparation of reports, fiscal information, or  
6 other documents required by the Early Intervention Act, but no  
7 information in such reports, fiscal information, or other documents  
8 shall be used in a manner which would allow for the personal  
9 identification of an individual infant, toddler, or family.

10 Sec. 58. Section 43-2508, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 43-2508 (1) The Department of Health and Human Services  
13 Finance and Support shall be responsible for providing or  
14 contracting for services.

15 (2) Whenever possible, the medical assistance program  
16 prescribed in sections 68-1018 to 68-1025 shall be used for payment  
17 of services coordination.

18 (3) It is the intent of this section that the ~~Department~~  
19 ~~of Health and Human Services Finance and Support~~ department shall  
20 apply for and implement a Title XIX medicaid waiver as a way  
21 to assist in the provision of services coordination to eligible  
22 infants or toddlers with disabilities and their families.

23 Sec. 59. Section 43-2509, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 43-2509 The Department of Health and Human Services

1 and the Department of Health and Human Services Finance and  
2 Support shall be responsible for incorporating components required  
3 under the federal early intervention program into the state plans  
4 developed for the Special Supplemental ~~Feed~~ Nutrition Program  
5 for Women, Infants, and Children, the Commodity Supplemental  
6 Food Program, the maternal and child health program, and the  
7 developmental disabilities program. The ~~department~~ departments  
8 shall provide technical assistance, planning, and coordination  
9 related to the incorporation of such components.

10           Sec. 60. Section 43-2510, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-2510 The Department of Health and Human Services and  
13 the Department of Health and Human Services Finance and Support  
14 shall be responsible for incorporating components required under  
15 the federal early intervention program into the mental health  
16 and developmental disabilities planning responsibilities of the  
17 ~~department~~ departments. The ~~department~~ departments shall provide  
18 technical assistance, planning, and coordination related to the  
19 incorporation of such components.

20           Sec. 61. Section 43-2512, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           43-2512 Each region established pursuant to section  
23 79-1135 shall establish an interagency planning team, which  
24 planning team shall include representatives from school districts,  
25 social services, health and medical services, parents, and

1 mental health, developmental disabilities, Head Start, and other  
2 relevant agencies or persons serving children from birth to  
3 age five and their families and parents or guardians. Each  
4 interagency planning team shall be responsible for assisting in  
5 the planning and implementation of the Early Intervention Act in  
6 each local community or region. The Department of Health and Human  
7 Services Finance and Support, in collaboration with each regional  
8 interagency planning team, shall provide or contract for services  
9 coordination.

10           Sec. 62. Section 43-2606, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-2606 (1) The Department of Health and Human Services  
13 Regulation and Licensure shall adopt and promulgate rules and  
14 regulations for mandatory training requirements for providers  
15 of child care and school-age-care programs. Such requirements  
16 shall include preservice orientation and at least four hours of  
17 annual inservice training. All child care programs required to  
18 be licensed under section 71-1911 shall show completion of a  
19 preservice orientation approved or delivered by the department  
20 prior to receiving a provisional license.

21           (2) The department shall initiate a system of documenting  
22 the training levels of staff in specific child care settings to  
23 assist parents in selecting optimal care settings.

24           (3) The training requirements shall be designed to meet  
25 the health, safety, and developmental needs of children and shall



1 be tailored to the needs of licensed providers of child care  
2 programs. The training requirements for providers of child care  
3 programs shall include, but not be limited to, information on  
4 sudden infant death syndrome, shaken baby syndrome, and child  
5 abuse.

6 (4) The department shall provide or arrange for training  
7 opportunities throughout the state and shall provide information  
8 regarding training opportunities to all providers of child care  
9 programs at the time of registration or licensure, when renewing a  
10 registration, or on a yearly basis following licensure.

11 (5) Each provider of child care and school-age-care  
12 programs receiving orientation or training shall provide his or her  
13 social security number to the department.

14 (6) Rules and regulations adopted and promulgated under  
15 this section by the Department of Health and Human Services shall  
16 be deemed adopted and promulgated by the Department of Health  
17 and Human Services Regulation and Licensure on and after August  
18 28, 1999. The department shall review and provide recommendations  
19 to the Governor for updating rules and regulations adopted and  
20 promulgated under this section at least every five years.

21 Sec. 63. Section 43-3401, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-3401 The Early Childhood Interagency Coordinating  
24 Council is created. The council shall advise and assist the  
25 collaborating agencies in carrying out the provisions of the Early

1 Intervention Act, the Quality Child Care Act, sections 79-1101 to  
2 79-1104, and other early childhood care and education initiatives  
3 under state supervision. Membership and activities of the council  
4 shall comply with all applicable provisions of federal law. Members  
5 of the council shall be appointed by the Governor and shall  
6 include, but not be limited to:

7 (1) Parents of children who require early intervention  
8 services, early childhood special education, and other early  
9 childhood care and education services; and

10 (2) Representatives of school districts, social  
11 services, health and medical services, family child care and  
12 center-based early childhood care and education programs, agencies  
13 providing training to staff of child care programs, resource  
14 and referral agencies, mental health services, developmental  
15 disabilities services, educational service units, Head Start,  
16 higher education, physicians, the Legislature, business persons,  
17 and the collaborating agencies.

18 Terms of the members shall be for three years, and  
19 a member shall not serve more than two consecutive three-year  
20 terms. Members shall be reimbursed for their actual and necessary  
21 expenses, including child care expenses, with funds provided for  
22 such purposes through the Early Intervention Act, the Quality Child  
23 Care Act, and sections 79-1101 to 79-1104.

24 Members of the Nebraska Interagency Coordinating Council  
25 serving on July 13, 2000, shall constitute the Early Childhood

1 Interagency Coordinating Council and shall serve for the remainder  
2 of their terms. The Governor shall make additional appointments  
3 as required by this section and to fill vacancies as needed.  
4 The Governor shall set the initial terms of additional appointees  
5 to result in staggered terms for members of the council. The  
6 Department of Health and Human Services Finance and Support, the  
7 Department of Health and Human Services Regulation and Licensure,  
8 and the State Department of Education shall provide and coordinate  
9 staff assistance to the council.

10 Sec. 64. Section 43-3402, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 43-3402 With respect to the Early Intervention Act, the  
13 Quality Child Care Act, and sections 79-1101 to 79-1104, the  
14 Early Childhood Interagency Coordinating Council shall serve in an  
15 advisory capacity to state agencies responsible for early childhood  
16 care and education, including care for school-age children, in  
17 order to:

18 (1) Promote the policies set forth in the Early  
19 Intervention Act, the Quality Child Care Act, and sections 79-1101  
20 to 79-1104;

21 (2) Facilitate collaboration with the federally  
22 administered Head Start program;

23 (3) Make recommendations to the Department of Health and  
24 Human Services, the Department of Health and Human Services Finance  
25 and Support, the Department of Health and Human Services Regulation

1 and Licensure, the State Department of Education, and other state  
2 agencies responsible for the regulation or provision of early  
3 childhood care and education programs on the needs, priorities, and  
4 policies relating to such programs throughout the state;

5 (4) Make recommendations to the lead agency or agencies  
6 which prepare and submit applications for federal funding;

7 (5) Review new or proposed revisions to rules and  
8 regulations governing the registration or licensing of early  
9 childhood care and education programs;

10 (6) Study and recommend additional resources for early  
11 childhood care and education programs; and

12 (7) Report biennially to the Governor and Legislature  
13 on the status of early intervention and early childhood care and  
14 education in the state. Such report shall include (a) the number  
15 of license applications received under section 71-1911, (b) the  
16 number of such licenses issued, (c) the number of such license  
17 applications denied, (d) the number of complaints investigated  
18 regarding such licensees, (e) the number of such licenses revoked,  
19 (f) the number and dollar amount of civil penalties levied pursuant  
20 to section 71-1920, and (g) information which may assist the  
21 Legislature in determining the extent of cooperation provided  
22 to the Department of Health and Human Services Regulation and  
23 Licensure by other state and local agencies pursuant to section  
24 71-1914.

25 Sec. 65. Section 68-1021.01, Revised Statutes Supplement,

1 2005, is amended to read:

2 68-1021.01 All references to federal law adopted by  
3 reference in sections 68-1020, 68-1021, and 68-1037 to 68-1039  
4 refer to the law as it existed on ~~January~~ April 1, 2005 2006.

5 Sec. 66. Section 68-1204, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 68-1204 (1) For the purpose of providing or purchasing  
8 social services described in section 68-1202, the state hereby  
9 accepts and assents to all applicable provisions of the federal  
10 Social Security Act, as ~~amended~~ such act existed on the operative  
11 date of this section. The Director of Health and Human Services  
12 and the Director of Finance and Support may each adopt and  
13 promulgate rules and regulations, enter into agreements, and adopt  
14 fee schedules with regard to social services described in section  
15 68-1202.

16 (2) The Department of Health and Human Services shall  
17 adopt and promulgate rules and regulations to administer funds  
18 under Title XX of the federal Social Security Act, as ~~amended~~ such  
19 title existed on the operative date of this section, designated for  
20 specialized developmental disability services.

21 Sec. 67. Section 68-1205, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 68-1205 The matching funds required to obtain the federal  
24 share of the services described in section 68-1202 may come from  
25 either state, county, or donated sources in amounts and other

1 provisions to be determined by the Director of Health and Human  
2 Services or the Director of Finance and Support.

3 Sec. 68. Section 68-1206, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 68-1206 (1) The Director of Health and Human Services and  
6 the Director of Finance and Support shall administer the program  
7 of social services in this state. The Department of Health and  
8 Human Services and the Department of Health and Human Services  
9 Finance and Support may contract with other social agencies for the  
10 purchase of social services at rates not to exceed those prevailing  
11 in the state or the cost at which the ~~department~~ departments could  
12 provide those services. The statutory maximum payments for the  
13 separate program of aid to dependent children shall apply only to  
14 public assistance grants and shall not apply to payments for social  
15 services.

16 (2) In determining the rate or rates to be paid by the  
17 ~~department~~ Department of Health and Human Services for child care  
18 as defined in section 43-2605, the ~~director~~ Director of Health  
19 and Human Services shall adopt a fixed-rate schedule for the state  
20 or a fixed-rate schedule for an area of the state applicable to  
21 each child care program category of provider as defined in section  
22 71-1910 which may claim reimbursement for services provided by  
23 the federal Child Care Subsidy program, except that the department  
24 shall not pay a rate higher than that charged by an individual  
25 provider to that provider's private clients. The schedule may

1 provide separate rates for care for infants, for children with  
2 special needs, including disabilities or technological dependence,  
3 or for other individual categories of children. The schedule shall  
4 be effective on October 1 of every year and shall be revised  
5 annually by the ~~director~~ annually Director of Health and Human  
6 Services.

7           Sec. 69. Section 68-1402, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           68-1402 The Director of ~~Health and Human Services~~ Finance  
10 and Support shall establish and administer a program for the  
11 medical care of persons of all ages with genetically handicapping  
12 conditions, including cystic fibrosis, hemophilia, and sickle cell  
13 disease, through physicians and health care providers that are  
14 qualified pursuant to the regulations of the Department of Health  
15 and Human Services Finance and Support to provide such medical  
16 services. The director shall adopt such rules and regulations  
17 pursuant to the Administrative Procedure Act, as are necessary for  
18 the implementation of the provisions of the Genetically Handicapped  
19 Persons Act. The director shall establish priorities for the use of  
20 funds and provision of services under the Genetically Handicapped  
21 Persons Act.

22           Sec. 70. Section 68-1403, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           68-1403 The program established under the Genetically  
25 Handicapped Persons Act, which shall be under the supervision of

1 the Department of Health and Human Services Finance and Support,  
2 shall include any or all of the following:

- 3 (1) Initial intake and diagnostic evaluation;
- 4 (2) The cost of blood transfusion and use of blood  
5 derivatives, or both;
- 6 (3) Rehabilitation services, including reconstructive  
7 surgery;
- 8 (4) Expert diagnosis;
- 9 (5) Medical treatment;
- 10 (6) Surgical treatment;
- 11 (7) Hospital care;
- 12 (8) Physical therapy;
- 13 (9) Occupational therapy;
- 14 (10) Materials and prescription drugs;
- 15 (11) Appliances and their upkeep, maintenance, and care;
- 16 (12) Maintenance, transportation, or care incidental to  
17 any other form of services; and
- 18 (13) Appropriate and sufficient staff to carry out the  
19 provisions of the Genetically Handicapped Persons Act.

20 Sec. 71. Section 68-1405, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 68-1405 The Department of Health and Human Services  
23 Finance and Support shall establish uniform standards of  
24 financial eligibility for the treatment services under the  
25 program established under the Genetically Handicapped Persons



1 Act, including a uniform formula for the payment of services by  
2 physicians and health care providers rendered under such program  
3 and such formula for payment shall provide for reimbursement at  
4 rates similar to those set by other federal and state programs, and  
5 private entitlements. The ~~Department of Health and Human Services~~  
6 standards of the department for financial eligibility shall be  
7 the same as those established for Medically Handicapped Children's  
8 Services, as administered by the ~~Department of Health and Human~~  
9 ~~Services department~~. All county or district health departments  
10 shall use the uniform standards for financial eligibility and  
11 uniform formula for payment established by the department. All  
12 payments shall be used in support of the program for services  
13 established under the act.

14 The department shall establish payment schedules for  
15 services. ~~not later than June 30, 1980.~~

16 Sec. 72. Section 68-1503, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 68-1503 As used in For purposes of the Disabled Persons  
19 and Family Support Act: ~~unless the context otherwise requires:~~

20 (1) Department shall ~~mean~~ means the Department of Health  
21 and Human Services Finance and Support;

22 (2) Disabled family member or disabled person shall ~~mean~~  
23 means a person who has a medically determinable severe, chronic  
24 disability which:

25 (a) Is attributable to a mental or physical impairment or

1 combination of mental and physical impairments;

2 (b) ~~is~~ Is likely to continue indefinitely;

3 (c) ~~results~~ Results in substantial functional limitations  
4 in two or more of the following areas of major life activity: (i)  
5 Self-care, (ii) receptive and expressive language, (iii) learning,  
6 (iv) mobility, (v) self-direction, (vi) capacity for independent  
7 living, (vii) work skills or work tolerance, and (viii) economic  
8 sufficiency; and

9 (d) ~~reflects~~ Reflects the person's need for a combination  
10 and sequence of special, interdisciplinary, or generic care,  
11 treatment, vocational rehabilitation, or other services which are  
12 of lifelong or extended duration and are individually planned and  
13 coordinated; and

14 (3) Other support programs ~~shall mean~~ means all forms  
15 of local, state, or federal assistance, grants-in-aid, educational  
16 programs, or support provided by public or private funds for  
17 disabled persons or their families.

18 Sec. 73. Section 68-1514, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 68-1514 The Director of ~~Health and Human Services~~ Finance  
21 and Support shall provide an opportunity for a fair hearing before  
22 the department to any family or disabled person who is denied  
23 support pursuant to the Disabled Persons and Family Support Act.

24 Sec. 74. Section 68-1521, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   68-1521 For purposes of sections 68-1520 to 68-1528:

2                   (1) Caregiver means an individual providing ongoing care  
3 for an individual unable to care for himself or herself;

4                   (2) Community lifespan respite services program means a  
5 noncategorical respite services program that:

6                   (a) Is operated by a community-based private nonprofit  
7 or for-profit agency or a public agency that provides respite  
8 services;

9                   (b) Receives funding through the Nebraska Lifespan  
10 Respite Services Program established under section 68-1522;

11                   (c) Serves an area in one or more of the six regional  
12 services areas of the department;

13                   (d) Acts as a single local source for respite services  
14 information and referral; and

15                   (e) Facilitates access to local respite services;

16                   (3) Department means the Department of Health and Human  
17 Services Finance and Support;

18                   (4) Noncategorical care means care without regard to the  
19 age, type of special needs, or other status of the individual  
20 receiving care;

21                   (5) Provider means an individual or agency selected by a  
22 family or caregiver to provide respite services to an individual  
23 with special needs;

24                   (6) Respite care means the provision of short-term relief  
25 to primary caregivers from the demands of ongoing care for an

1 individual with special needs; and

2 (7) Respite services includes:

3 (a) Recruiting and screening of paid and unpaid respite  
4 care providers;

5 (b) Identifying local training resources and organizing  
6 training opportunities for respite care providers;

7 (c) Matching of families and caregivers with providers  
8 and other types of respite care;

9 (d) Linking families and caregivers with payment  
10 resources;

11 (e) Identifying, coordinating, and developing community  
12 resources for respite services;

13 (f) Quality assurance and evaluation; and

14 (g) Assisting families and caregivers to identify respite  
15 care needs and resources.

16 Sec. 75. Section 68-1522, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 68-1522 The Director of ~~Health and Human Services~~ Finance  
19 and Support shall establish the Nebraska Lifespan Respite Services  
20 Program to develop and encourage statewide coordination of respite  
21 services and to work with community-based private nonprofit or  
22 for-profit agencies, public agencies, and interested citizen  
23 groups in the establishment of community lifespan respite services  
24 programs. The Nebraska Lifespan Respite Services Program shall:

25 (1) Provide policy and program development support,

1 including, but not limited to, data collection and outcome  
2 measures;

3 (2) Identify and promote resolution of local and  
4 state-level policy concerns;

5 (3) Provide technical assistance to community lifespan  
6 respite services programs;

7 (4) Develop and distribute respite services information;

8 (5) Promote the exchange of information and coordination  
9 among state and local governments, community lifespan respite  
10 services programs, agencies serving individuals unable to care  
11 for themselves, families, and respite care advocates to encourage  
12 efficient provision of respite services and reduce duplication of  
13 effort;

14 (6) Ensure statewide access to community lifespan respite  
15 services programs; and

16 (7) Monitor and evaluate implementation of community  
17 lifespan respite services programs.

18 Sec. 76. Section 68-1523, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 68-1523 (1) The department, through the Nebraska Lifespan  
21 Respite Services Program, shall coordinate the establishment of  
22 community lifespan respite services programs. The program shall  
23 accept proposals submitted in the form and manner required by  
24 the program from community-based private nonprofit or for-profit  
25 agencies or public agencies that provide respite services to

1 operate community lifespan respite services programs. According  
2 to criteria established by the department, the Nebraska Lifespan  
3 Respite Services Program shall designate and fund agencies  
4 described in this section to operate community lifespan respite  
5 services programs.

6 (2) The Director of ~~Health and Human Services~~ Finance  
7 and Support shall create the position of program specialist for  
8 the Nebraska Lifespan Respite Services Program to administer the  
9 program.

10 Sec. 77. Section 68-1713, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 68-1713 (1) The Department of Health and Human Services  
13 shall submit a waiver request or requests to the United States  
14 Department of Health and Human Services and the United States  
15 Department of Agriculture as necessary for federal authorization to  
16 implement the provisions of the Welfare Reform Act. The Department  
17 of Health and Human Services may include the provisions of sections  
18 68-1718 to 68-1726 in its waiver requests and shall designate  
19 counties for implementation on or after July 1, 1995, of such  
20 sections for recipient families in the aid to dependent children  
21 program. It is the intent of the Legislature that such designated  
22 counties include at least one county with a population of not  
23 more than thirty-five thousand inhabitants and one county with a  
24 population of at least one hundred fifty thousand inhabitants but  
25 not more than three hundred thousand inhabitants.

1           The Department of Health and Human Services shall  
2 implement the following policies:

3           (a) Permit Work Experience in Private for Profit  
4 Enterprises;

5           (b) Permit Job Search; ~~to Extend Beyond Eight Weeks Each~~  
6 ~~Year;~~

7           (c) Permit Employment to be Considered a JOBS Program  
8 Component;

9           (d) Make Sanctions More Stringent to Emphasize  
10 Participant Obligations;

11           (e) Alternative Hearing Process;

12           (f) Permit Adults in Two-Parent Households to Participate  
13 in JOBS Activities Based on Their Self-Sufficiency Needs;

14           (g) Eliminate Exemptions for Individuals with Children  
15 Between the Ages of 12 Weeks and Age Six;

16           (h) Providing Poor Working Families with Transitional  
17 Child Care to Ease the Transition from Welfare to Self-Sufficiency;

18           (i) Provide Transitional Health Care for 12 Months After  
19 Termination of ADC;

20           (j) Cap Family Benefits Based on the Number of Children  
21 in the Unit at the Time of Initial Eligibility;

22           (k) Require Adults to Ensure that Children in the Family  
23 Unit Attend School;

24           (l) Encourage Minor Parents to Live with Their Parents;

25           (m) Establish a Resource Limit of \$4,000 for a single

1 individual and \$6,000 for two or more individuals for ADC;

2 (n) Exclude the Value of One Vehicle Per Family When  
3 Determining ADC Eligibility;

4 (o) Exclude the Cash Value of Life Insurance Policies in  
5 Calculating Resources for ADC;

6 (p) Permit the Self-Sufficiency Contract Assessment to  
7 Substitute for the Six-Month ADC Redetermination Process;

8 (q) Establish Food Stamps as a Continuous Benefit with  
9 Eligibility Reevaluated with Yearly Redeterminations;

10 (r) Establish a Budget the Gap Methodology Whereby  
11 Countable Earned Income is Subtracted from the Standard of the  
12 Need and Payment is Based on the Difference or Maximum Payment  
13 Level, Whichever is Less. That this Gap be Established at a Level  
14 that Encourages Work but at Least at a Level that Ensures that  
15 Those Currently Eligible for ADC do not Lose Eligibility Because of  
16 the Adoption of this Methodology;

17 (s) Adopt an Earned Income Disregard of Twenty Percent of  
18 Gross Earnings in the ADC Program and One Hundred Dollars in the  
19 Related Medical Assistance Program;

20 (t) Disregard Financial Assistance Received Intended for  
21 Books, Tuition, or Other Self-Sufficiency Related Use;

22 (u) Culture: Eliminate the 100-Hour Rule, The Quarter of  
23 Work Requirement, and The 30-Day Unemployed/Underemployed Period  
24 for ADC-UP Eligibility;

25 (v) Make ADC a Time-Limited Program;



1           (w) Eliminate Self-Initiated Training as a JOBS Option;  
2    and

3           (x) Other Waivers: Statewide Operation of the  
4    Demonstration Project.

5           At the end of the first year of implementation, the  
6    department shall identify any adjustments or adaptations that may  
7    be needed before the policies of the Welfare Reform Act are  
8    implemented in other areas of the state. Such review shall include  
9    an evaluation of the impact of such policies. The department shall  
10   implement the policies in additional counties as necessary to  
11   complete statewide implementation.

12           (2) The Department of Health and Human Services shall (a)  
13   apply for a waiver to allow for a sliding-fee schedule for the  
14   population served by the caretaker relative program or (b) pursue  
15   other public or private mechanisms, to provide for transitional  
16   health care benefits to individuals and families who do not  
17   qualify for cash assistance. It is the intent of the Legislature  
18   that transitional health care coverage be made available on a  
19   sliding-scale basis to individuals and families with incomes up to  
20   one hundred eighty-five percent of the federal poverty level if  
21   other health care coverage is not available.

22           Sec. 78. Section 68-1721, Reissue Revised Statutes of  
23   Nebraska, is amended to read:

24           68-1721 (1) Under the self-sufficiency contract developed  
25   under section 68-1719, the principal wage earner and other

1 nonexempt members of the applicant family shall be required to  
2 participate in one or more of the following: Education, job skills  
3 training, work experience, job search, or employment.

4 (2) Education shall consist of the general education  
5 development program, high school, Adult Basic Education, English  
6 as a Second Language, postsecondary education, or other education  
7 programs approved in the contract.

8 (3) Job skills training shall include vocational  
9 training in technical job skills and equivalent knowledge.  
10 Activities shall consist of formalized, technical job skills  
11 training, apprenticeships, on-the-job training, or training in the  
12 operation of a microbusiness enterprise. The types of training,  
13 apprenticeships, or training positions may include, but need not be  
14 limited to, the ability to provide services such as home repairs,  
15 automobile repairs, respite care, foster care, personal care, and  
16 child care. Job skills training shall be prioritized and approved  
17 for occupations that facilitate economic self-sufficiency.

18 (4) The purpose of work experience shall be to improve  
19 the employability of applicants by providing work experience and  
20 training to assist them to move promptly into regular public or  
21 private employment. Work experience shall mean unpaid work in a  
22 public, private, for-profit, or nonprofit business or organization.  
23 Work experience placements shall take into account the individual's  
24 prior training, skills, and experience. A placement shall not  
25 exceed ~~three~~ six months.

1           (5) Job search shall assist adult members of recipient  
2 families in finding their own jobs. The emphasis shall be placed on  
3 teaching the individual to take responsibility for his or her own  
4 job development and placement. ~~If an intensive job search does not~~  
5 ~~result in employment within three months, the comprehensive assets~~  
6 ~~assessment and the self-sufficiency contract shall be reassessed.~~

7           (6) Employment shall consist of work for pay. The  
8 employment may be full-time or part-time but shall be adequate  
9 to help the recipient family reach economic self-sufficiency.

10           Sec. 79. Section 71-101, Revised Statutes Supplement,  
11 2005, is amended to read:

12           71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to  
13 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, ~~and 71-2801~~  
14 ~~to 71-2823~~ and the Physical Therapy Practice Act shall be known and  
15 may be cited as the Uniform Licensing Law.

16           For purposes of the Uniform Licensing Law, unless the  
17 context otherwise requires:

18           (1) Board or professional board means one of the boards  
19 appointed by the State Board of Health pursuant to sections 71-111  
20 and 71-112;

21           (2) Licensed, when applied to any licensee in any of the  
22 professions named in section 71-102, means a person licensed under  
23 the Uniform Licensing Law;

24           (3) Profession or health profession means any of the  
25 several groups named in section 71-102;

1                   (4) Department means the Department of Health and Human  
2     Services Regulation and Licensure;

3                   (5) Whenever a particular gender is used, it is construed  
4     to include both the masculine and the feminine, and the singular  
5     number includes the plural when consistent with the intent of the  
6     Uniform Licensing Law;

7                   (6) License, licensing, or licensure means permission to  
8     engage in a health profession which would otherwise be unlawful  
9     in this state in the absence of such permission and which is  
10    granted to individuals who meet prerequisite qualifications and  
11    allows them to perform prescribed health professional tasks and use  
12    a particular title;

13                  (7) Certificate, certify, or certification, with respect  
14    to professions, means a voluntary process by which a statutory,  
15    regulatory entity grants recognition to an individual who has met  
16    certain prerequisite qualifications specified by such regulatory  
17    entity and who may assume or use the word certified in the title or  
18    designation to perform prescribed health professional tasks. When  
19    appropriate, certificate means a document issued by the department  
20    which designates particular credentials for an individual;

21                  (8) Lapse means the termination of the right or privilege  
22    to represent oneself as a licensed, certified, or registered person  
23    and to practice the profession when a license, certificate, or  
24    registration is required to do so;

25                  (9) Credentialing means the totality of the process

1 associated with obtaining state approval to provide health care  
2 services or human services or changing aspects of a current  
3 approval. Credentialing grants permission to use a protected  
4 title that signifies that a person is qualified to provide the  
5 services of a certain profession. Credential includes a license,  
6 certificate, or registration; and

7 (10) Dependence means a compulsive or chronic need for  
8 or an active addiction to alcohol or any controlled substance or  
9 narcotic drug.

10 Sec. 80. Section 71-113, Revised Statutes Cumulative  
11 Supplement, 2004, is amended to read:

12 71-113 (1) Each professional board shall consist of four  
13 members, including one public member, except as otherwise provided  
14 in this section. A public member of a professional board (a) shall  
15 be a resident of this state who has attained the age of majority,  
16 (b) shall represent the interests and viewpoints of consumers, and  
17 (c) shall not be a present or former member of a credentialed  
18 profession, an employee of a member of a credentialed profession,  
19 or an immediate family or household member of any person presently  
20 regulated by such board.

21 (2)(a) In audiology and speech-language pathology the  
22 board shall consist of five members, including at least one public  
23 member, (b) in dentistry the board shall consist of ten members,  
24 including at least two public members, (c) in medicine and surgery  
25 the board shall consist of eight members, including at least two

1 public members, (d) in pharmacy the board shall consist of five  
2 members, including at least one public member, (e) in psychology  
3 the board shall consist of seven members, including at least two  
4 public members, (f) in medical nutrition therapy the board shall  
5 consist of five members, including at least one public member, (g)  
6 in mental health practice the board shall consist of not more than  
7 ten members, including at least two public members, (h) in alcohol  
8 and drug counseling the board shall consist of nine members,  
9 including two public members, and (i) in veterinary medicine and  
10 surgery the board shall consist of five members, including at least  
11 one public member, and (j) boards with eleven or more members shall  
12 have at least three public members.

13 (3) Membership on the Board of Audiology and  
14 Speech-Language Pathology shall consist of two members who are  
15 audiologists, two members who are speech-language pathologists, and  
16 at least one public member.

17 (4) Membership on the Board of Athletic Training shall  
18 consist of three athletic trainers and at least one public member.

19 (5) Membership on the Board of Respiratory Care Practice  
20 shall consist of two respiratory care practitioners, one physician,  
21 and at least one public member.

22 (6) Two of the six professional members of the Board  
23 of Medicine and Surgery shall be officials or members of the  
24 instructional staff of an accredited medical school in this state.

25 (7) Two of the eight professional members of the Board

1 of Dentistry shall be dentists who are officials or members of the  
2 instructional staff of an accredited school or college of dentistry  
3 in this state, and two of the members of the board shall be dental  
4 hygienists licensed under the Uniform Licensing Law.

5 (8) Membership on the Board of Medical Nutrition Therapy  
6 shall consist of two medical nutrition therapists, one physician,  
7 and at least one public member.

8 (9) Membership on the Board of Mental Health Practice  
9 shall consist of not more than two certified master social workers,  
10 not more than two certified professional counselors, not more than  
11 two certified marriage and family therapists, and at least two  
12 public members. At least one professional member of the board  
13 shall be a member of a racial or ethnic minority. When ten or  
14 more persons hold licenses as mental health practitioners without  
15 holding an associated certificate, not more than two such licensed  
16 mental health practitioners shall be added to the board.

17 (10) Membership on the Board of Alcohol and Drug  
18 Counseling shall consist of six alcohol and drug counselors  
19 three of whom may be licensed as psychologists or mental health  
20 practitioners and three of whom are not licensed as psychologists  
21 or mental health practitioners, one person who is a psychiatrist,  
22 psychologist, or mental health practitioner, and two public  
23 members.

24 (11) Membership on the Board of Veterinary Medicine  
25 and Surgery shall consist of three veterinarians, one veterinary

1 technician, and one public member.

2           Sec. 81. Section 71-162, Revised Statutes Cumulative  
3 Supplement, 2004, is amended to read:

4           71-162 (1) It is the intent of the Legislature that the  
5 revenue to cover the cost of the credentialing system administered  
6 by the department is to be derived from General Funds, cash funds,  
7 federal funds, gifts, grants, or fees from individuals or entities  
8 seeking credentials. The credentialing system includes the totality  
9 of the credentialing infrastructure and the process of issuance and  
10 renewal of credentials, examinations, inspections, investigations,  
11 continuing competency, compliance assurance, and the credentialing  
12 review process for the following individuals and entities that  
13 provide health services and health-related services:

14           (a) Individuals in the practice of acupuncture; advanced  
15 practice nursing; alcohol and drug counseling; asbestos abatement,  
16 inspection, project design, and training; athletic training;  
17 audiology; speech-language pathology; chiropractic; dentistry;  
18 dental hygiene; environmental health; hearing aid instrument  
19 dispensing and fitting; lead-based paint abatement, inspection,  
20 project design, and training; medical nutrition therapy; medical  
21 radiography; medication aide services; medicine and surgery;  
22 mental health practice; nursing; nursing assistant or paid dining  
23 assistant services; nursing home administration; occupational  
24 therapy; optometry; osteopathic medicine; pharmacy; physical  
25 therapy; podiatry; psychology; radon detection, measurement,



1 and mitigation; respiratory care; social work; swimming pool  
2 operation; veterinary medicine and surgery; water system operation;  
3 constructing or decommissioning water wells and installing water  
4 well pumps and pumping equipment; and ~~wholesale drug distribution,~~  
5 and

6 (b) Individuals in the practice of and entities in the  
7 business of body art; cosmetology; electrology; emergency medical  
8 services; esthetics; funeral directing and embalming; massage  
9 therapy; and nail technology.

10 (2) The department shall determine the cost of the  
11 credentialing system for such individuals and entities by  
12 calculating the total of the base costs, the variable costs, and  
13 any adjustments as provided in sections 71-162.01 to 71-162.03.

14 (3) When fees are to be established pursuant to section  
15 71-162.04 for individuals or entities other than individuals in  
16 the practice of constructing or decommissioning water wells and  
17 installing water well pumps and pumping equipment, the department,  
18 upon recommendation of the appropriate board if applicable, shall  
19 base the fees on the cost of the credentialing system and shall  
20 include usual and customary cost increases, a reasonable reserve,  
21 and the cost of any new or additional credentialing activities.  
22 For individuals in the practice of constructing or decommissioning  
23 water wells and installing water well pumps and pumping equipment,  
24 the Water Well Standards and Contractors' Licensing Board shall  
25 establish the fees as otherwise provided in this subsection. All

1 such fees shall be collected as provided in section 71-163.

2 Sec. 82. Section 71-193.01, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 71-193.01 There is hereby established a ~~Division of~~  
5 ~~Dental Health~~ the Office of Oral Health and Dentistry in the  
6 Department of Health and Human Services Regulation and Licensure.  
7 The head of such ~~division~~ office shall be known as the ~~chief of~~  
8 ~~the Division of Dental Health~~ Dental Health Director and shall be  
9 appointed by the ~~Department of Health and Human Services Regulation~~  
10 ~~and Licensure~~ department. The ~~chief of such division~~ Dental Health  
11 Director shall give full time to his or her duties, ~~as such chief.~~

12 Sec. 83. Section 71-193.02, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-193.02 The ~~chief of the Division of Dental Health~~  
15 Dental Health Director shall be a graduate of an approved college  
16 of dentistry and shall be licensed by the State of Nebraska  
17 to practice dentistry in Nebraska or duly licensed to practice  
18 dentistry in some other state of the United States of America.

19 Sec. 84. Section 71-193.03, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-193.03 The duties of ~~such Division of Dental Health~~  
22 the Office of Oral Health and Dentistry shall be the promotion and  
23 development of activities which will result in the practice and  
24 improvement of the dental health of the people of the state under  
25 rules and regulations adopted and promulgated by the ~~Department of~~

1 ~~Health and Human Services Regulation and Licensure~~ department.

2           Sec.   85.   Section   71-1,104.01,   Revised   Statutes  
3 Supplement, 2005, is amended to read:

4           71-1,104.01 (1) Except as provided in section 71-519  
5 and except for newborn screening tests ordered by physicians to  
6 comply with the law of the state in which the infant was born,  
7 a physician or an individual to whom the physician has delegated  
8 authority to perform a selected act, task, or function shall not  
9 order a predictive genetic test without first obtaining the written  
10 informed consent of the patient to be tested. Written informed  
11 consent consists of a signed writing executed by the patient  
12 or the representative of a patient lacking decisional capacity  
13 that confirms that the physician or individual acting under the  
14 delegated authority of the physician has explained, and the patient  
15 or his or her representative understands:

16           (a) The nature and purpose of the predictive genetic  
17 test;

18           (b) The effectiveness and limitations of the predictive  
19 genetic test;

20           (c) The implications of taking the predictive genetic  
21 test, including the medical risks and benefits;

22           (d) The future uses of the sample taken to conduct the  
23 predictive genetic test and the genetic information obtained from  
24 the predictive genetic test;

25           (e) The meaning of the predictive genetic test results

1 and the procedure for providing notice of the results to the  
2 patient; and

3 (f) Who will have access to the sample taken to conduct  
4 the predictive genetic test and the genetic information obtained  
5 from the predictive genetic test, and the patient's right to  
6 confidential treatment of the sample and the genetic information.

7 (2) The Department of Health and Human Services  
8 Regulation and Licensure shall develop and distribute a model  
9 informed consent form for purposes of this section. The department  
10 shall include in the model form all of the information required  
11 under subsection (1) of this section. The department shall  
12 distribute the model form and all revisions to the form to  
13 physicians and other individuals subject to this section upon  
14 request and at no charge. The department shall review the model  
15 form at least annually for five years after the first model form is  
16 distributed and shall revise the model form if necessary to make  
17 the form reflect the latest developments in medical genetics. The  
18 department may also develop and distribute a pamphlet that provides  
19 further explanation of the information included in the model form.

20 (3) If a patient or his or her representative signs a  
21 copy of the model informed consent form developed and distributed  
22 under subsection (2) of this section, the physician or individual  
23 acting under the delegated authority of the physician shall give  
24 the patient a copy of the signed informed consent form and shall  
25 include the original signed informed consent form in the patient's

1 medical record.

2 (4) If a patient or his or her representative signs a  
3 copy of the model informed consent form developed and distributed  
4 under subsection (2) of this section, the patient is barred  
5 from subsequently bringing a civil action for damages against  
6 the physician, or an individual to whom the physician delegated  
7 authority to perform a selected act, task, or function, who ordered  
8 the predictive genetic test, based upon failure to obtain informed  
9 consent for the predictive genetic test.

10 (5) A physician's duty to inform a patient under this  
11 section does not require disclosure of information beyond what  
12 a physician reasonably well-qualified to order and interpret  
13 the predictive genetic test would know. A person acting under  
14 the delegated authority of a physician shall understand and be  
15 qualified to provide the information required by subsection (1) of  
16 this section.

17 (6) For purposes of this section:

18 (a) Genetic information means information about a gene,  
19 gene product, or inherited characteristic derived from a genetic  
20 test;

21 (b) Genetic test means the analysis of human DNA, RNA,  
22 chromosomes, epigenetic status, and those tissues, proteins, and  
23 metabolites used to detect heritable or somatic disease-related  
24 genotypes or karyotypes for clinical purposes. Tests of tissues,  
25 proteins, and metabolites are included only when generally accepted

1 in the scientific and medical communities as being specifically  
2 determinative of a heritable or somatic disease-related genetic  
3 condition. Genetic test does not include a routine analysis,  
4 including a chemical analysis, of body fluids or tissues unless  
5 conducted specifically to determine a heritable or somatic  
6 disease-related genetic condition. Genetic test does not include  
7 a physical examination or imaging study. Genetic test does not  
8 include a procedure performed as a component of biomedical research  
9 that is conducted pursuant to federal common rule under 21 C.F.R.  
10 parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed  
11 on January 1, 2003; and

12 (c) Predictive genetic test means a genetic test for an  
13 otherwise undetectable genotype or karyotype relating to the risk  
14 for developing a genetically related disease or disability, the  
15 results of which can be used to substitute a patient's prior risk  
16 based on population data or family history with a risk based on  
17 genotype or karyotype. Predictive genetic test does not include  
18 diagnostic testing conducted on a person exhibiting clinical signs  
19 or symptoms of a possible genetic condition. Predictive genetic  
20 testing does not include prenatal genetic diagnosis, unless the  
21 prenatal testing is conducted for an adult-onset condition not  
22 expected to cause clinical signs or symptoms before the age of  
23 majority.

24 Sec. 86. Section 71-612, Revised Statutes Cumulative  
25 Supplement, 2004, is amended to read:

1                   71-612 (1) The Director of Finance and Support, as  
2 the State Registrar, through the Department of Health and Human  
3 Services Finance and Support shall preserve permanently and index  
4 all certificates received. The department shall supply to any  
5 applicant for any proper purpose, as defined by rules and  
6 regulations of the department, a certified copy of the record of  
7 any birth, death, marriage, annulment, or dissolution of marriage  
8 registered. The department shall supply a copy of a public vital  
9 record for viewing purposes at its office upon an application  
10 signed by the applicant and upon proof of the identity of the  
11 applicant. The application may include the name, address, and  
12 telephone number of the applicant, purpose for viewing each record,  
13 and other information as may be prescribed by the department by  
14 rules and regulations to protect the integrity of vital records  
15 and prevent their fraudulent use. Except as provided in subsections  
16 (2), (3), (5), (6), and (7) of this section, the department shall  
17 be entitled to charge and collect in advance a fee of ~~seven~~  
18 eleven dollars to be paid by the applicant for each certified copy  
19 supplied to the applicant or for any search made at the applicant's  
20 request for access to or a certified copy of any record, whether or  
21 not the record is found on file with the department.

22                   (2) The department shall, free of charge, search for and  
23 furnish a certified copy of any record on file with the department  
24 upon the request of (a) the United States Department of Veterans  
25 Affairs or any lawful service organization empowered to represent

1 veterans if the copy of the record is to be issued, for the  
2 welfare of any member or veteran of the armed forces of the United  
3 States or in the interests of any member of his or her family, in  
4 connection with a claim growing out of service in the armed forces  
5 of the nation or (b) the Military Department.

6 (3) The Department of Health and Human Services Finance  
7 and Support may, free of charge, search for and furnish a certified  
8 copy of any record on file with the department when in the opinion  
9 of the Director of Finance and Support it would be a hardship for  
10 the claimant of old age, survivors, or disability benefits under  
11 the federal Social Security Act to pay the fee provided in this  
12 section.

13 (4) A strict account shall be kept of all funds received  
14 by the department. Funds received pursuant to subsections (1),  
15 (5), (6), and (8) of this section shall be remitted to the State  
16 Treasurer for credit to the Department of Health and Human Services  
17 Finance and Support Cash Fund. Money credited to the fund pursuant  
18 to this section shall be used for the purpose of administering  
19 the laws relating to vital statistics and may be used to create a  
20 petty cash fund administered by the department to facilitate the  
21 payment of refunds to individuals who apply for copies of records.  
22 The petty cash fund shall be subject to section 81-104.01, except  
23 that the amount in the petty cash fund shall not be less than  
24 twenty-five dollars nor more than one thousand dollars.

25 (5) The department shall, upon request, conduct a search



1 of death certificates for stated individuals for the Nebraska  
2 Medical Association or any of its allied medical societies or any  
3 inhospital staff committee pursuant to sections 71-3401 to 71-3403.  
4 If such death certificate is found, the department shall provide  
5 a noncertified copy. The department shall charge a fee for each  
6 search or copy sufficient to cover its actual direct costs, except  
7 that the fee shall not exceed two dollars per individual search or  
8 copy requested.

9 (6) The department may permit use of data from vital  
10 records for statistical or research purposes under section  
11 71-602 or disclose data from certificates or records to federal,  
12 state, county, or municipal agencies of government for use in  
13 administration of their official duties and charge and collect a  
14 fee that will recover the department's cost of production of the  
15 data. The department may provide access to public vital records for  
16 viewing purposes by electronic means, if available, under security  
17 provisions which shall assure the integrity and security of the  
18 records and data base and shall charge and collect a fee that shall  
19 recover the department's costs.

20 (7) In addition to the fees charged under subsection  
21 (1) of this section, the department shall charge and collect an  
22 additional fee of one dollar for any certified copy of the record  
23 of any birth or for any search made at the applicant's request  
24 for access to or a certified copy of any such record, whether  
25 or not the record is found on file with the department. Any

1 county containing a city of the metropolitan class which has an  
2 established city-county or county health department pursuant to  
3 sections 71-1626 to 71-1636 which has an established system of  
4 registering births and deaths shall charge and collect in advance a  
5 fee of one dollar for any certified copy of the record of any birth  
6 or for any search made at the applicant's request for such record,  
7 whether or not the record is found on file with the county. All  
8 fees collected under this subsection shall be remitted to the State  
9 Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

10 (8) The department shall not charge other state agencies  
11 the fees authorized under subsections (1) and (7) of this section  
12 for automated review of any certificates. The department shall  
13 charge and collect a fee from other state agencies for such  
14 automated review that will recover the department's cost.

15 Sec. 87. Section 71-617.15, Revised Statutes Cumulative  
16 Supplement, 2004, is amended to read:

17 71-617.15 (1) ~~The Department of Health and Human Services~~  
18 ~~Finance and Support~~ department shall charge and collect a the same  
19 fee of seven dollars as prescribed in subsection (1) of section  
20 71-612 when an application for a delayed birth certificate is  
21 filed. All such fees shall be remitted to the State Treasurer  
22 for credit to the Department of Health and Human Services Finance  
23 and Support Cash Fund. The department shall collect an additional  
24 fee of one dollar when a delayed birth certificate is issued. All  
25 amounts collected from such additional fee shall be remitted to the

1 State Treasurer for credit to the Nebraska Child Abuse Prevention  
2 Fund.

3 (2) Upon request and payment of the fees required by  
4 section 71-612, a certified copy of a delayed birth certificate  
5 shall be furnished by the Director of Finance and Support. All  
6 fees for a certified copy shall be handled as provided in section  
7 71-612.

8 Sec. 88. Section 71-627, Revised Statutes Cumulative  
9 Supplement, 2004, is amended to read:

10 71-627 (1) The certificate of birth of adopted children  
11 shall be filed as other certificates of birth. ~~There shall be a fee~~  
12 ~~of seven dollars charged~~ The department shall charge and collect  
13 the same fee as prescribed in subsection (1) of section 71-612 for  
14 each certificate filed. All such fees shall be remitted to the  
15 State Treasurer for credit to the Department of Health and Human  
16 Services Finance and Support Cash Fund. The department shall charge  
17 and collect an additional fee of one dollar for each certificate  
18 issued. All amounts collected from such additional fee shall be  
19 remitted to the State Treasurer for credit to the Nebraska Child  
20 Abuse Prevention Fund.

21 (2) Upon request and payment of the fees required by  
22 section 71-612, a certified copy of an adoptive birth certificate  
23 shall be furnished by the Director of Finance and Support. All  
24 fees for a certified copy shall be handled as provided in section  
25 71-612.

1           Sec. 89. Section 71-628, Revised Statutes Cumulative  
2 Supplement, 2004, is amended to read:

3           71-628 In case of the legitimation of any child born  
4 in Nebraska by the subsequent marriage of such child's parents as  
5 provided in section 43-1406, the ~~Department of Health and Human~~  
6 ~~Services Finance and Support~~ department, upon the receipt of a  
7 certified copy of the marriage certificate of the parents and a  
8 statement of the parents acknowledging paternity, shall prepare  
9 a new certificate of birth in the new name of the child so  
10 legitimated, in substantially the same form as that used for other  
11 live births. The department ~~and~~ shall charge a ~~filing fee of~~  
12 ~~seven dollars~~ and collect the same fee as prescribed in subsection  
13 (1) of section 71-612. All such fees shall be remitted to the State  
14 Treasurer for credit to the Department of Health and Human Services  
15 Finance and Support Cash Fund. The department shall charge and  
16 collect an additional fee of one dollar for each new certificate of  
17 birth filed. All amounts collected from such additional fee shall  
18 be remitted to the State Treasurer for credit to the Nebraska Child  
19 Abuse Prevention Fund.

20           Sec. 90. Section 71-634, Revised Statutes Cumulative  
21 Supplement, 2004, is amended to read:

22           71-634 The ~~Department of Health and Human Services~~  
23 ~~Finance and Support~~ department shall charge and collect a the  
24 same fee of seven dollars as prescribed in subsection (1) of  
25 section 71-612 for each proceeding under sections 71-630 and 71-635

1 to 71-644. All fees so collected shall be remitted to the State  
2 Treasurer for credit to the Department of Health and Human Services  
3 Finance and Support Cash Fund. The department shall collect the  
4 fees required by section 71-612 for a certified copy of the amended  
5 record. All fees for a certified copy shall be handled as provided  
6 in section 71-612.

7 If a certificate is amended pursuant to sections 71-630  
8 and 71-635 to 71-644 as the result of an error committed by the  
9 department in the issuance of such certificate, the department may  
10 waive any fee required under this section.

11 Sec. 91. Section 71-801, Revised Statutes Cumulative  
12 Supplement, 2004, is amended to read:

13 71-801 Sections 71-801 to ~~71-820~~ 71-818 shall be known  
14 and may be cited as the Nebraska Behavioral Health Services Act.

15 Sec. 92. Section 71-802, Revised Statutes Cumulative  
16 Supplement, 2004, is amended to read:

17 71-802 The purposes of the Nebraska Behavioral Health  
18 Services Act are to: (1) Reorganize statutes relating to the  
19 provision of publicly funded behavioral health services; (2)  
20 provide for the organization and administration of the public  
21 behavioral health system within the department; (3) rename mental  
22 health regions as behavioral health regions; (4) provide for  
23 the naming of regional behavioral health authorities and ongoing  
24 activities of regional governing boards; (5) reorganize and rename  
25 the State Mental Health Planning and Evaluation Council, the State

1 Alcoholism and Drug Abuse Advisory Committee, and the Nebraska  
2 Advisory Commission on Compulsive Gambling; ~~and create the State~~  
3 ~~Behavioral Health Council;~~ (6) change and add provisions relating  
4 to development of community-based behavioral health services and  
5 funding for behavioral health services; and (7) authorize the  
6 closure of regional centers.

7           Sec. 93. Section 71-814, Revised Statutes Cumulative  
8 Supplement, 2004, is amended to read:

9           71-814 (1) The State Advisory Committee on Mental Health  
10 Services is created. Members of the committee shall have a  
11 demonstrated interest and commitment and specialized knowledge,  
12 experience, or expertise relating to the provision of mental  
13 health services in the State of Nebraska. The committee shall  
14 consist of twenty-three members appointed by the Governor as  
15 follows: (a) One regional governing board member, (b) one regional  
16 administrator, (c) twelve consumers of behavioral health services  
17 or their family members, (d) two providers of behavioral health  
18 services, (e) two representatives from the State Department of  
19 Education, including one representative from the Division of  
20 Vocational Rehabilitation of the State Department of Education,  
21 (f) three representatives from the Nebraska Health and Human  
22 Services System representing mental health, social services, and  
23 medicaid, (g) one representative from the Nebraska Commission on  
24 Law Enforcement and Criminal Justice, and (h) one representative  
25 from the Housing Office of the Community and Rural Development

1 Division of the Department of Economic Development.

2 (2) The committee shall be responsible to the State  
3 ~~Behavioral Health Council~~ division and shall (a) serve as the  
4 state's mental health planning council as required by Public  
5 Law 102-321, (b) conduct regular meetings, (c) provide advice  
6 and assistance to ~~the council~~ and the division relating to the  
7 provision of mental health services in the State of Nebraska,  
8 including, but not limited to, the development, implementation,  
9 provision, and funding of organized peer support services, (d)  
10 promote the interests of consumers and their families, including,  
11 but not limited to, their inclusion and involvement in all aspects  
12 of services design, planning, implementation, provision, education,  
13 evaluation, and research, (e) provide reports as requested by ~~the~~  
14 ~~council~~ ~~or~~ the division, and (f) engage in such other activities as  
15 directed or authorized by the ~~council~~ division.

16 Sec. 94. Section 71-815, Revised Statutes Supplement,  
17 2005, is amended to read:

18 71-815 (1) The State Advisory Committee on Substance  
19 Abuse Services is created. Members of the committee shall have  
20 a demonstrated interest and commitment and specialized knowledge,  
21 experience, or expertise relating to the provision of substance  
22 abuse services in the State of Nebraska. The committee shall  
23 consist of twelve members appointed by the Governor and shall  
24 include at least three consumers of substance abuse services.

25 (2) The committee shall be responsible to the State

1 ~~Behavioral Health Council~~ division and shall (a) conduct regular  
2 meetings, (b) provide advice and assistance to ~~the council~~ and the  
3 division relating to the provision of substance abuse services in  
4 the State of Nebraska, (c) promote the interests of consumers and  
5 their families, (d) provide reports as requested by ~~the council~~ ~~or~~  
6 the division, and (e) engage in such other activities as directed  
7 or authorized by the ~~council~~ division.

8           Sec. 95. Section 71-816, Revised Statutes Supplement,  
9 2005, is amended to read:

10           71-816 (1) The State Advisory Committee on Problem  
11 Gambling and Addiction Services is created. Members of the  
12 committee shall have a demonstrated interest and commitment and  
13 specialized knowledge, experience, or expertise relating to the  
14 provision of problem gambling and addiction services in the  
15 State of Nebraska. The committee shall consist of twelve members  
16 appointed by the Governor and shall include at least three  
17 consumers of problem gambling or addiction services.

18           (2) The committee shall be responsible to the State  
19 ~~Behavioral Health Council~~ division and shall (a) conduct regular  
20 meetings, (b) provide advice and assistance to ~~the council~~ and  
21 the division relating to the provision of problem gambling  
22 and addiction services in the State of Nebraska, (c) evaluate  
23 applications for funding from the Compulsive Gamblers Assistance  
24 Fund and make recommendations relating to disbursements from the  
25 fund, (d) promote the interests of consumers and their families,



1 (e) provide reports as requested by ~~the council~~ or the division,  
2 and (f) engage in such other activities as directed or authorized  
3 by the ~~council~~ division.

4 Sec. 96. Section 71-1721, Revised Statutes Supplement,  
5 2005, is amended to read:

6 71-1721 (1) Until July 1, 2007, an advanced practice  
7 registered nurse may provide health care services within specialty  
8 areas. An advanced practice registered nurse shall function by  
9 establishing collaborative, consultative, and referral networks as  
10 appropriate with other health care professionals. Patients who  
11 require care beyond the scope of practice of an advanced practice  
12 registered nurse shall be referred to an appropriate health care  
13 provider. Advanced practice registered nurse practice means health  
14 promotion, health supervision, illness prevention and diagnosis,  
15 treatment, and management of common health problems and chronic  
16 conditions, including:

17 (a) Assessing patients, ordering diagnostic tests and  
18 therapeutic treatments, synthesizing and analyzing data, and  
19 applying advanced nursing principles;

20 (b) Dispensing, incident to practice only, sample  
21 medications which are provided by the manufacturer and are provided  
22 at no charge to the patient; and

23 (c) Prescribing therapeutic measures and medications  
24 relating to health conditions within the scope of practice. Any  
25 limitation on the prescribing authority of the advanced practice

1 registered nurse for controlled substances listed in Schedule II  
2 of section 28-405 shall be recorded in the integrated practice  
3 agreement established pursuant to section 71-1716.03.

4 (2) On and after July 1, 2007, a A nurse practitioner  
5 may provide health care services within specialty areas. A  
6 nurse practitioner shall function by establishing collaborative,  
7 consultative, and referral networks as appropriate with other  
8 health care professionals. Patients who require care beyond the  
9 scope of practice of a nurse practitioner shall be referred to  
10 an appropriate health care provider. Nurse practitioner practice  
11 means health promotion, health supervision, illness prevention and  
12 diagnosis, treatment, and management of common health problems and  
13 chronic conditions, including:

14 ~~(1)~~ (a) Assessing patients, ordering diagnostic tests  
15 and therapeutic treatments, synthesizing and analyzing data, and  
16 applying advanced nursing principles;

17 ~~(2)~~ (b) Dispensing, incident to practice only, sample  
18 medications which are provided by the manufacturer and are provided  
19 at no charge to the patient; and

20 ~~(3)~~ (c) Prescribing therapeutic measures and medications  
21 relating to health conditions within the scope of practice. Any  
22 limitation on the prescribing authority of the nurse practitioner  
23 for controlled substances listed in Schedule II of section 28-405  
24 shall be recorded in the integrated practice agreement established  
25 pursuant to section 71-1716.03. ~~except controlled substances~~

1 listed in Schedule II of section 28-405 not otherwise provided for  
2 in this section, related to health conditions within the scope of  
3 practice. A nurse practitioner may prescribe controlled substances  
4 listed in Schedule II of section 28-405 used for pain control for  
5 a maximum seventy-two-hour supply if any subsequent renewal of such  
6 prescription is by a licensed physician.

7       (3) On and after July 1, 2007, a nurse practitioner  
8 who has proof of a current certification from an approved  
9 certification program in a psychiatric or mental health specialty  
10 may manage the care of patients committed under the Nebraska  
11 Mental Health Commitment Act. Patients who require care beyond  
12 the scope of practice of a nurse practitioner who has proof of  
13 a current certification from an approved certification program in  
14 a psychiatric or mental health specialty shall be referred to an  
15 appropriate health care provider.

16       Sec. 97. Section 71-1910, Revised Statutes Cumulative  
17 Supplement, 2004, is amended to read:

18       71-1910 For purposes of the Child Care Licensing Act,  
19 unless the context otherwise requires:

20       (1) Department means the Department of Health and Human  
21 Services Regulation and Licensure;

22       (2) Director means the Director of Regulation and  
23 Licensure; and

24       (3)(a) Program means the provision of services in lieu  
25 of parental supervision for children under thirteen years of age

1 for compensation, either directly or indirectly, on the average of  
2 less than twelve hours per day, but more than two hours per week,  
3 and includes any employer-sponsored child care, family child care  
4 home, child care center, school-age child care program, school-age  
5 services pursuant to section 79-1104, or preschool or nursery  
6 school.

7 (b) Program does not include casual care at irregular  
8 intervals, a recreation camp as defined in section 71-3101,  
9 classes or services provided by a religious organization other  
10 than child care or a preschool or nursery school, a preschool  
11 program conducted in a school approved pursuant to section 79-318,  
12 services provided only to school-age children during the summer and  
13 other extended breaks in the school year, or foster care as defined  
14 in section 71-1901.

15 Sec. 98. Section 71-1911, Revised Statutes Cumulative  
16 Supplement, 2004, is amended to read:

17 71-1911 (1) A person may operate child care for three or  
18 fewer children without having a license issued by the department.  
19 A person who is not required to be licensed may choose to apply  
20 for a license and, upon obtaining a license, shall be subject to  
21 the Child Care Licensing Act. A person who has had a license issued  
22 pursuant to ~~subsection (2)~~ of this section and has had such license  
23 suspended or revoked other than for nonpayment of fees shall not  
24 operate or offer to operate a program for ~~three or fewer~~ or  
25 provide care to any number of children until the person is licensed

1 pursuant to this section.

2           (2) No person shall operate or offer to operate a program  
3 for four or more children under his or her direct supervision,  
4 care, and control at any one time from families other than that  
5 of such person without having in full force and effect a written  
6 license issued by the department upon such terms as may be  
7 prescribed by the rules and regulations adopted and promulgated  
8 by the department. The license may be a provisional license or  
9 an operating license. A city, village, or county which has rules,  
10 regulations, or ordinances in effect on July 10, 1984, which apply  
11 to programs operating for two or three children from different  
12 families may continue to license persons providing such programs.  
13 If the license of a person is suspended or revoked other than  
14 for nonpayment of fees, such person shall not be licensed by any  
15 city, village, or county rules, regulations, or ordinances until  
16 the person is licensed pursuant to this section.

17           (3) A provisional license shall be issued to all  
18 applicants following the completion of preservice orientation  
19 training approved or delivered by the department for the first  
20 year of operation. At the end of one year of operation, the  
21 department shall either issue an operating license, extend the  
22 provisional license, or deny the operating license. The provisional  
23 license may be extended once for a period of no more than six  
24 months. The decision regarding extension of the provisional license  
25 is not appealable. The provisional license may be extended if:

1           (a) A licensee is unable to comply with all licensure  
2 requirements and standards, is making a good faith effort to  
3 comply, and is capable of compliance within the next six months;

4           (b) The effect of the current inability to comply with  
5 a rule or regulation does not present an unreasonable risk to the  
6 health, safety, or well-being of children or staff; and

7           (c) The licensee has a written plan of correction that  
8 has been approved by the department which is to be completed within  
9 the renewal period.

10           (4) The department may place a provisional or operating  
11 license on corrective action status. Corrective action status  
12 is voluntary and may be in effect for up to six months. The  
13 decision regarding placement on corrective action status is not  
14 a disciplinary action and is not appealable. If the written plan  
15 of correction is not approved by the department, the department  
16 may discipline the license. A probationary license may be issued  
17 for the licensee to operate under corrective action status if the  
18 department determines that:

19           (a) The licensee is unable to comply with all licensure  
20 requirements and standards or has had a history of noncompliance;

21           (b) The effect of noncompliance with any rule or  
22 regulation does not present an unreasonable risk to the health,  
23 safety, or well-being of children or staff; and

24           (c) The licensee has a written plan of correction that  
25 has been approved by the department.

1           (5) Operating licenses issued under the Child Care  
2 Licensing Act shall remain in full force and effect subject to  
3 annual inspections and fees. The department may amend a license  
4 upon change of ownership or location. Amending a license requires  
5 a site inspection by the department at the time of amendment,  
6 except that for amendment of a family child care home I license,  
7 an inspection shall occur within sixty days. When a program is to  
8 be permanently closed, the licensee shall return the license to the  
9 department within one week after the closing.

10           (6) The license, including any applicable status or  
11 amendment, shall be displayed by the licensee in a prominent place  
12 so that it is clearly visible to parents and others. License record  
13 information and inspection reports shall be made available by the  
14 licensee for public inspection upon request.

15           Sec. 99. Section 71-1911.02, Revised Statutes Cumulative  
16 Supplement, 2004, is amended to read:

17           71-1911.02 (1) An applicant for a license to operate a  
18 program required to be licensed under the Child Care Licensing  
19 Act shall file a written application with the department. The  
20 application shall be accompanied by the license fee pursuant to  
21 section 71-1911.01 and shall set forth the full name and address  
22 of the program to be licensed, the full name and address of  
23 the owner of such program, the names of all household members  
24 if the program is located in a residence, the names of all  
25 persons in control of the program, and additional information as

1 required by the department, including affirmative evidence of the  
2 applicant's ability to comply with rules and regulations adopted  
3 and promulgated under the act. The application shall include  
4 the applicant's social security number if the applicant is an  
5 individual. The social security number shall not be public record  
6 and may only be used for administrative purposes.

7 (2) The application shall be signed by (a) the owner, if  
8 the applicant is an individual, a ~~or~~ partnership, or the sole owner  
9 of a limited liability company or a corporation, (b) two of its  
10 members, if the applicant is a limited liability company, or (c)  
11 two of its officers, if the applicant is a corporation.

12 Sec. 100. Section 71-1914, Revised Statutes Cumulative  
13 Supplement, 2004, is amended to read:

14 71-1914 (1) The department shall be the state's  
15 coordinating agency for licensure and regulation of programs in  
16 this state in order to (a) provide efficient services pursuant to  
17 the Child Care Licensing Act, (b) avoid duplication of services,  
18 and (c) prevent an unnecessary number of inspections of any  
19 program. The department may request cooperation and assistance from  
20 local and state agencies and such agencies shall promptly respond.  
21 The extent of an agency's cooperation may be included in the report  
22 to the Legislature pursuant to section ~~71-1917~~ 43-3402.

23 (2) A city, village, or county may adopt rules,  
24 regulations, or ordinances establishing physical well-being and  
25 safety standards for programs whether or not the persons providing



1 such programs are subject to licensure under section 71-1911.  
2 Such rules, regulations, or ordinances shall be as stringent as  
3 or more stringent than the department's rules and regulations for  
4 licensees pursuant to the Child Care Licensing Act. The city,  
5 village, or county adopting such rules, regulations, or ordinances  
6 and the department shall coordinate the inspection and supervision  
7 of licensees to avoid duplication of inspections. A city, village,  
8 or county shall report any violation of such rules, regulations,  
9 or ordinances to the director. The city, village, or county may  
10 administer and enforce such rules, regulations, and ordinances.  
11 Enforcement of provisions of the Child Care Licensing Act or rules  
12 or regulations adopted and promulgated under the act shall be by  
13 the department pursuant to sections 71-1919 to 71-1923.

14 Sec. 101. Section 71-1916, Revised Statutes Cumulative  
15 Supplement, 2004, is amended to read:

16 71-1916 (1) The department shall adopt and promulgate  
17 such rules and regulations, consistent with the Child Care  
18 Licensing Act, as necessary for (a) the proper care and protection  
19 of children in programs regulated under the act, (b) the issuance  
20 and discipline of licenses, and (c) the proper administration of  
21 the act.

22 (2) The department shall adopt and promulgate rules and  
23 regulations establishing standards for the physical well-being,  
24 safety, and protection of children in programs licensed under  
25 the Child Care Licensing Act. Such standards shall insure that

1 the program is providing proper care for and treatment of the  
2 children served and that such care and treatment is consistent with  
3 the children's physical well-being, safety, and protection. Such  
4 standards shall not require the use of any specific instructional  
5 materials or affect the contents of any course of instruction  
6 which may be offered by a program. The rules and regulations  
7 shall contain provisions which encourage the involvement of parents  
8 in child care for their children and insure the availability,  
9 accessibility, and high quality of services for children.

10 (3) The rules and regulations shall be adopted and  
11 promulgated pursuant to the Administrative Procedure Act, except  
12 that the department shall hold a public hearing in each geographic  
13 area of the state prior to the adoption, amendment, or repeal  
14 of any rule or regulation. The department shall review and  
15 provide recommendations to the Governor for updating such rules  
16 and regulations at least every five years.

17 (4) The rules and regulations applicable to programs  
18 required to be licensed under the Child Care Licensing Act do not  
19 apply to any program operated or contracted by a public school  
20 district and subject to the rules and regulations of the State  
21 Department of Education as provided in section 79-1104.

22 (5) Contested cases of the department under the Child  
23 Care Licensing Act shall be in accordance with the Administrative  
24 Procedure Act.

25 Sec. 102. Section 71-2225, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-2225 For purposes of sections 71-2225 to 71-2230:

3 (1) CSF program shall mean the Commodity Supplemental  
4 Food Program administered by the United States Department of  
5 Agriculture or its successor;

6 (2) Food instrument shall mean a voucher, check, coupon,  
7 or other document used to obtain supplemental foods;

8 (3) Supplemental foods shall mean (a) foods containing  
9 nutrients determined to be beneficial for infants, children, and  
10 pregnant, breast-feeding, or postpartum women as prescribed by  
11 the United States Department of Agriculture for use in the WIC  
12 program and (b) foods donated by the United States Department of  
13 Agriculture for use in the CSF program; and

14 (4) WIC program shall mean the Special Supplemental ~~Feed~~  
15 Nutrition Program for Women, Infants, and Children as administered  
16 by the United States Department of Agriculture or its successor.

17 Sec. 103. Section 71-3503, Revised Statutes Supplement,  
18 2005, is amended to read:

19 71-3503 For purposes of the Radiation Control Act, unless  
20 the context otherwise requires:

21 (1) Radiation means ionizing radiation and nonionizing  
22 radiation as follows:

23 (a) Ionizing radiation means gamma rays, X-rays, alpha  
24 and beta particles, high-speed electrons, neutrons, protons, and  
25 other atomic or nuclear particles or rays but does not include

1 sound or radio waves or visible, infrared, or ultraviolet light;  
2 and

3 (b) Nonionizing radiation means (i) any electromagnetic  
4 radiation which can be generated during the operations of  
5 electronic products to such energy density levels as to present  
6 a biological hazard to occupational and public health and safety  
7 and the environment, other than ionizing electromagnetic radiation,  
8 and (ii) any sonic, ultrasonic, or infrasonic waves which are  
9 emitted from an electronic product as a result of the operation of  
10 an electronic circuit in such product and to such energy density  
11 levels as to present a biological hazard to occupational and public  
12 health and safety and the environment;

13 (2) Radioactive material means any material, whether  
14 solid, liquid, or gas, which emits ionizing radiation  
15 spontaneously. Radioactive material includes, but is not  
16 limited to, accelerator-produced material, byproduct material,  
17 naturally occurring material, source material, and special nuclear  
18 material;

19 (3) Radiation-generating equipment means any manufactured  
20 product or device, component part of such a product or device,  
21 or machine or system which during operation can generate or emit  
22 radiation except devices which emit radiation only from radioactive  
23 material;

24 (4) Sources of radiation means any radioactive material,  
25 any radiation-generating equipment, or any device or equipment

1 emitting or capable of emitting radiation or radioactive material;

2 (5) Undesirable radiation means radiation in such  
3 quantity and under such circumstances as determined from time  
4 to time by rules and regulations adopted and promulgated by the  
5 department;

6 (6) Person means any individual, corporation,  
7 partnership, limited liability company, firm, association,  
8 trust, estate, public or private institution, group, agency,  
9 political subdivision of this state, any other state or  
10 political subdivision or agency thereof, and any legal successor,  
11 representative, agent, or agency of the foregoing;

12 (7) Registration means registration with the department  
13 pursuant to the Radiation Control Act;

14 (8) Department means the Department of Health and Human  
15 Services Regulation and Licensure;

16 (9) Coordinator means the Director of Regulation and  
17 Licensure;

18 (10) Electronic product means any manufactured product,  
19 device, assembly, or assemblies of such products or devices which,  
20 during operation in an electronic circuit, can generate or emit a  
21 physical field of radiation;

22 (11) License means:

23 (a) A general license issued pursuant to rules and  
24 regulations adopted and promulgated by the department without the  
25 filing of an application with the department or the issuance of

1 licensing documents to particular persons to transfer, acquire,  
2 own, possess, or use quantities of or devices or equipment  
3 utilizing radioactive materials;

4 (b) A specific license, issued to a named person upon  
5 application filed with the department pursuant to the Radiation  
6 Control Act and rules and regulations adopted and promulgated  
7 pursuant to the act, to use, manufacture, produce, transfer,  
8 receive, acquire, own, or possess quantities of or devices or  
9 equipment utilizing radioactive materials;

10 (c) A license issued to a radon measurement specialist,  
11 radon measurement technician, radon mitigation specialist, radon  
12 mitigation technician, radon measurement business, or radon  
13 mitigation business; or

14 (d) A license issued to a medical radiographer or limited  
15 radiographer;

16 (12) Byproduct material means:

17 (a) Any radioactive material, except special nuclear  
18 material, yielded in or made radioactive by exposure to the  
19 radiation incident to the process of producing or utilizing special  
20 nuclear material; and

21 (b) The tailings or wastes produced by the extraction  
22 or concentration of uranium or thorium from any ore processed  
23 primarily for its source material content, including discrete  
24 surface wastes resulting from uranium or thorium solution  
25 extraction processes. Underground ore bodies depleted by such

1 solution extraction operations do not constitute byproduct  
2 material;

3 (13) Source material means:

4 (a) Uranium or thorium or any combination thereof in any  
5 physical or chemical form; or

6 (b) Ores which contain by weight one-twentieth of one  
7 percent or more of uranium, thorium, or any combination thereof.

8 Source material does not include special nuclear material;

9 (14) Special nuclear material means:

10 (a) Plutonium, uranium 233, or uranium enriched in the  
11 isotope 233 or in the isotope 235 and any other material that  
12 the United States Nuclear Regulatory Commission pursuant to the  
13 provisions of section 51 of the federal Atomic Energy Act of 1954,  
14 as amended, determines to be special nuclear material but does not  
15 include source material; or

16 (b) Any material artificially enriched by any material  
17 listed in subdivision (14)(a) of this section but does not include  
18 source material;

19 (15) Users of sources of radiation means:

20 (a) Physicians using radioactive material or  
21 radiation-generating equipment for human use;

22 (b) Natural persons using radioactive material or  
23 radiation-generating equipment for education, research, or  
24 development purposes;

25 (c) Natural persons using radioactive material or

1 radiation-generating equipment for manufacture or distribution  
2 purposes;

3 (d) Natural persons using radioactive material or  
4 radiation-generating equipment for industrial purposes; and

5 (e) Natural persons using radioactive material or  
6 radiation-generating equipment for any other similar purpose;

7 (16) Civil penalty means any monetary penalty levied on  
8 a licensee or registrant because of violations of statutes, rules,  
9 regulations, licenses, or registration certificates but does not  
10 include criminal penalties;

11 (17) Closure means all activities performed at a waste  
12 handling, processing, management, or disposal site, such as  
13 stabilization and contouring, to assure that the site is in a  
14 stable condition so that only minor custodial care, surveillance,  
15 and monitoring are necessary at the site following termination of  
16 licensed operation;

17 (18) Decommissioning means final operational activities  
18 at a facility to dismantle site structures, to decontaminate  
19 site surfaces and remaining structures, to stabilize and contain  
20 residual radioactive material, and to carry out any other  
21 activities to prepare the site for postoperational care;

22 (19) Disposal means the permanent isolation of low-level  
23 radioactive waste pursuant to the Radiation Control Act and rules  
24 and regulations adopted and promulgated pursuant to such act;

25 (20) Generate means to produce low-level radioactive



1 waste when used in relation to low-level radioactive waste;

2 (21) High-level radioactive waste means:

3 (a) Irradiated reactor fuel;

4 (b) Liquid wastes resulting from the operation of the  
5 first cycle solvent extraction system or equivalent and the  
6 concentrated wastes from subsequent extraction cycles or the  
7 equivalent in a facility for reprocessing irradiated reactor fuel;  
8 and

9 (c) Solids into which such liquid wastes have been  
10 converted;

11 (22) Low-level radioactive waste means radioactive waste  
12 not defined as high-level radioactive waste, spent nuclear fuel,  
13 or byproduct material as defined in subdivision (12)(b) of this  
14 section;

15 (23) Management of low-level radioactive waste means the  
16 handling, processing, storage, reduction in volume, disposal, or  
17 isolation of such waste from the biosphere in any manner;7  
18 ~~except the commercial disposal of low-level radioactive waste in a~~  
19 ~~disposal facility, designated by the Central Interstate Low-Level~~  
20 ~~Radioactive Waste Compact Commission;~~

21 (24) Source material mill tailings or mill tailings means  
22 the tailings or wastes produced by the extraction or concentration  
23 of uranium or thorium from any ore processed primarily for  
24 its source material content, including discrete surface wastes  
25 resulting from underground solution extraction processes, but

1 not including underground ore bodies depleted by such solution  
2 extraction processes;

3 (25) Source material milling means any processing of ore,  
4 including underground solution extraction of unmined ore, primarily  
5 for the purpose of extracting or concentrating uranium or thorium  
6 therefrom and which results in the production of source material  
7 and source material mill tailings;

8 (26) Spent nuclear fuel means irradiated nuclear fuel  
9 that has undergone at least one year of decay since being used as  
10 a source of energy in a power reactor. Spent nuclear fuel includes  
11 the special nuclear material, byproduct material, source material,  
12 and other radioactive material associated with fuel assemblies;

13 (27) Transuranic waste means radioactive waste material  
14 containing alpha-emitting radioactive elements, with radioactive  
15 half-lives greater than five years, having an atomic number greater  
16 than 92 in concentrations in excess of one hundred nanocuries per  
17 gram;

18 (28) Licensed practitioner means a person licensed to  
19 practice medicine, dentistry, podiatry, chiropractic, osteopathic  
20 medicine and surgery, or as an osteopathic physician;

21 (29) X-ray system means an assemblage of components for  
22 the controlled production of X-rays, including, but not limited to,  
23 an X-ray high-voltage generator, an X-ray control, a tube housing  
24 assembly, a beam-limiting device, and the necessary supporting  
25 structures. Additional components which function with the system

1 are considered integral parts of the system;

2 (30) Limited radiographer means a person licensed  
3 to practice medical radiography pursuant to subsection (2) of  
4 section 71-3515.01. Limited radiographer does not include a person  
5 certified under section 71-176.01;

6 (31) Medical radiographer means a person licensed to  
7 practice medical radiography pursuant to subsection (1) of section  
8 71-3515.01;

9 (32) Medical radiography means the application of  
10 radiation to humans for diagnostic purposes, including, but not  
11 limited to, adjustment or manipulation of X-ray systems and  
12 accessories including image receptors, positioning of patients,  
13 processing of films, and any other action that materially affects  
14 the radiation dose to patients;

15 (33) Licensed facility operator means any person or  
16 entity who has obtained a license under the Low-Level Radioactive  
17 Waste Disposal Act to operate a facility, including any person  
18 or entity to whom an assignment of a license is approved by the  
19 Department of Environmental Quality; and

20 (34) Deliberate misconduct means an intentional act or  
21 omission by a person that (a) would intentionally cause a licensee,  
22 registrant, or applicant for a license or registration to be  
23 in violation of any rule, regulation, or order of or any term,  
24 condition, or limitation of any license or registration issued by  
25 the department under the Radiation Control Act or (b) constitutes

1 an intentional violation of a requirement, procedure, instruction,  
2 contract, purchase order, or policy under the Radiation Control  
3 Act by a licensee, a registrant, an applicant for a license or  
4 registration, or a contractor or subcontractor of a licensee,  
5 registrant, or applicant for a license or registration.

6 Sec. 104. Section 71-3515.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-3515.01 (1) A person licensed by the department as  
9 a medical radiographer ~~by the department~~ may practice medical  
10 radiography on any part of the human anatomy for interpretation  
11 by and under the direction of a licensed practitioner, excluding  
12 interpretative fluoroscopic procedures. Such person shall:

13 (a) Prior to issuance of a license as a medical  
14 radiographer, (i) complete an educational program in radiography  
15 incorporating the course material as provided in the rules and  
16 regulations of the department pursuant to subsection (1) of section  
17 71-3515.02 and (ii) complete an application which includes such  
18 person's social security number and successfully complete an  
19 examination approved by the department on the course material.  
20 Presentation of proof of registration in radiography with the  
21 American Registry of Radiologic Technologists is proof of meeting  
22 the requirements of this subdivision (a) of this subsection; and

23 (b) Prior to renewal of licensure as a medical  
24 radiographer, have an average of twelve units of continuing  
25 education per year as approved by the department or complete

1 continuing competency activities as required by the department  
2 pursuant to section 71-3507.

3 Presentation of proof of current registration in  
4 radiography with the American Registry of Radiologic Technologists  
5 is proof of meeting the requirements of subdivisions (a) and (b)  
6 of this subsection.

7 (2) A person licensed by the department as a limited  
8 radiographer ~~by the department~~ may practice medical radiography  
9 on limited regions of the human anatomy, using only routine  
10 radiographic procedures, for the interpretation by and under  
11 the direction of a licensed practitioner, excluding computed  
12 tomography, the use of contrast media, and the use of fluoroscopic  
13 or mammographic equipment. Such person shall:

14 (a) Prior to issuance of a license as a limited  
15 radiographer, complete an application which includes the  
16 applicant's social security number and successfully complete  
17 an examination approved by the department, as described in  
18 subdivision (2)(a) of section 71-3515.02 and at least one of the  
19 anatomical regions listed in subdivision (2)(b) of such section or  
20 successfully complete an examination approved by the department,  
21 as described in subsection (3) of section 71-3515.02. The license  
22 issued shall be specific to the anatomical region or regions for  
23 which the applicant has passed an approved examination, except  
24 that an applicant may be licensed in the anatomical region of  
25 Abdomen upon successful passage of the examinations described in

1 subdivisions (2) (a) and (2) (b) (iv) of section 71-3515.02 and upon a  
2 finding by the department that continued provision of service for a  
3 community would be in jeopardy; and

4 (b) Prior to renewal of licensure as a limited  
5 radiographer, have an average of twelve units of continuing  
6 education per year as approved by the department or complete  
7 continuing competency activities as required by the department  
8 pursuant to section 71-3507.

9 (3) The requirements of this section do not apply to  
10 a student while enrolled and participating in an educational  
11 program in medical radiography who, as a part of an educational  
12 program, applies X-rays to humans while under the supervision  
13 of the licensed practitioners or medical radiographers associated  
14 with the educational program. Students who have completed at least  
15 twelve months of the training course described in subsection (1) of  
16 section 71-3515.02 may apply for licensure as a temporary medical  
17 radiographer. Temporary medical radiographer licenses shall expire  
18 eighteen months after issuance and shall not be renewed. Persons  
19 licensed as temporary medical radiographers shall be permitted  
20 to perform the duties of a limited radiographer licensed in all  
21 anatomical regions of subdivision (2) (b) of such section and  
22 Abdomen.

23 Sec. 105. Section 71-3515.02, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-3515.02 (1) The educational program for medical

1 radiographers shall consist of twenty-four months of instruction  
2 in radiography approved by the department which includes, but is  
3 not limited to, radiographic procedures, imaging equipment, image  
4 production and evaluation, film processing, radiation physics,  
5 radiation protection, radiation biology, radiographic pathology,  
6 and quality assurance activities. The department shall recognize  
7 equivalent courses of instruction successfully completed by  
8 individuals who are applying for licensure as medical radiographers  
9 by the department when determining if the requirements of section  
10 71-3515.01 have been met.

11 (2) The examination for limited radiographers shall  
12 include, but not be limited to:

13 (a) Radiation protection, equipment maintenance and  
14 operation, image production and evaluation, and patient care and  
15 management; and

16 (b) The anatomy of, and positioning for, specific regions  
17 of the human anatomy. The anatomical regions shall include at least  
18 one of the following:

- 19 (i) Chest;  
20 (ii) Extremities;  
21 (iii) Skull and sinus;  
22 (iv) Spine; or  
23 (v) Ankle and foot.

24 (3) The examination for limited radiographers in bone  
25 density shall include, but not be limited to, basic concepts

1 of bone densitometry, equipment operation and quality control,  
2 radiation safety, and dual X-ray absorptiometry (DXA) scanning of  
3 the finger, heel, forearm, lumbar spine, and proximal femur.

4       (4) The department shall adopt and promulgate  
5 rules and regulations regarding the examinations required in  
6 subdivisions (1)(a)(ii) and (2)(a) of section 71-3515.01. Such  
7 rules and regulations shall provide for (a) the administration  
8 of examinations based upon national standards, such as the  
9 Examination in Radiography from the American Registry of Radiologic  
10 Technologists for medical radiographers, the Examination for the  
11 Limited Scope of Practice in Radiography or the Bone Densitometry  
12 Equipment Operator Examination from the American Registry of  
13 Radiologic Technologists for limited radiographers, or equivalent  
14 examinations that, as determined by the department, meet the  
15 standards for educational and psychological testing as recommended  
16 by the American Psychological Association, the American Educational  
17 Research Association, and the National Council on Measurement in  
18 Education, (b) procedures to be followed for examinations, (c) the  
19 method of grading and the passing grades for such examinations, (d)  
20 security protection for questions and answers, and (e) for medical  
21 radiographers, the contents of such examination based on the course  
22 requirements for medical radiographers prescribed in subsection (1)  
23 of this section. Any costs incurred in determining the extent to  
24 which examinations meet the examining standards of this subsection  
25 shall be paid by the individual or organization proposing the use



1 of such examination.

2           ~~(4)~~ (5) Any person employed in medical radiography  
3 before and on June 2, 1995, who is not otherwise licensed may  
4 apply for a license as a provisional limited radiographer before  
5 January 1, 1996. A person licensed as a provisional limited  
6 radiographer may perform the duties of a limited radiographer  
7 licensed in all anatomical regions listed in subdivision (2)(b) of  
8 this section and the anatomical region of Abdomen. A provisional  
9 limited radiographer shall not radiograph children under the age  
10 of six months, except (a) upon a finding by the department  
11 that continued provision of service for a community would be in  
12 jeopardy if this provision is enforced, (b) for an employee of  
13 a hospital licensed and in good standing under the Health Care  
14 Facility Licensure Act and located in a rural area as defined  
15 in section 71-5653, or (c) in a bona fide emergency situation.  
16 No examination shall be required of individuals applying for a  
17 license as a provisional limited radiographer. All provisional  
18 limited radiographer licenses expire January 1, 2005. A license  
19 as a provisional limited radiographer is subject to discipline for  
20 violations of the Radiation Control Act and rules and regulations  
21 adopted pursuant to the act, including, but not limited to,  
22 revocation for nonpayment of fees or failure to meet continuing  
23 competency requirements as required by the department pursuant to  
24 section 71-3507.

25           ~~(5)~~ (6) No applicant for a license as a limited

1 radiographer may take the examination for licensure, or for  
2 licensure for any specific anatomical region, more than three  
3 times without first waiting a period of one year after the last  
4 unsuccessful attempt of the examination and submitting proof to  
5 the department of completion of continuing competency activities  
6 as required by the department pursuant to section 71-3507 for each  
7 subsequent attempt.

8           ~~(6)~~ (7) The department shall establish and collect fees  
9 as provided in section 71-162 for the implementation of this  
10 section and section 71-3515.01, including an examination fee,  
11 initial and renewal fees for licenses for persons performing  
12 medical radiography, and a fee for approval of courses of  
13 instruction.

14           Sec. 106. Section 71-3516, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-3516 (1) The department shall have the authority in  
17 the event of an emergency affecting occupational or public health  
18 and safety or the environment to impound or order the impounding  
19 of sources of radiation in the possession of any person who is  
20 not equipped to observe or fails to observe the provisions of the  
21 Radiation Control Act or any rules or regulations issued pursuant  
22 to such act.

23           (2) Any source of radiation impounded by the department  
24 is declared to be a common nuisance and cannot be subject to a  
25 replevin action.

1           (3) Possession of an impounded source of radiation shall  
2 be determined by section 107 of this act.

3           Sec. 107. (1) The department shall keep any source of  
4 radiation impounded under section 71-3516 for as long as it is  
5 needed as evidence for any hearing.

6           (2) Prior to the issuance of an order of disposition for  
7 an impounded source of radiation, the department shall notify in  
8 writing any person, known by the department to claim an interest  
9 in the source of radiation, that the department intends to dispose  
10 of the source of radiation. Notice shall be served by personal  
11 service, by certified or registered mail to the last-known address  
12 of the person, or by publication. Notice by publication shall  
13 only be made if personal service or service by mail cannot be  
14 effectuated.

15           (3) Within fifteen days after service of the notice under  
16 subsection (2) of this section, any person claiming an interest  
17 in the impounded source of radiation may request, in writing, a  
18 hearing before the department to determine possession of the source  
19 of radiation. The hearing shall be held in accordance with rules  
20 and regulations adopted and promulgated by the department. If the  
21 department determines that the person claiming an interest in the  
22 source of radiation has proven by a preponderance of the evidence  
23 that such person (a) had not used or intended to use the source  
24 of radiation in violation of the Radiation Control Act, (b) has  
25 an interest in the source of radiation acquired in good faith as

1 an owner, a lien holder, or otherwise, and (c) has the authority  
2 under the act to possess such source of radiation, the department  
3 shall order that possession of the source of radiation be given to  
4 such person. If possession of the impounded source of radiation is  
5 not given to the person requesting the hearing, such person may  
6 appeal the decision of the department, and the appeal shall be in  
7 accordance with the Administrative Procedure Act. If possession of  
8 the impounded source of radiation is not given to the person so  
9 appealing, the department shall order such person to pay for the  
10 costs of the hearing, storage fees, and any other reasonable and  
11 necessary expenses related to the impounded source of radiation.

12 (4) If possession of the impounded source of radiation is  
13 not given to the person requesting the hearing under subsection (3)  
14 of this section, the department shall issue an order of disposition  
15 for the source of radiation and shall dispose of the source of  
16 radiation as directed in the order. Disposition methods are at the  
17 discretion of the department and may include, but are not limited  
18 to, (a) sale of the source of radiation to a person authorized to  
19 possess the source of radiation under the act, (b) transfer to the  
20 manufacturer of the source of radiation, or (c) destruction of the  
21 source of radiation. The order of disposition shall be considered a  
22 transfer of title of the source of radiation.

23 (5) If expenses related to the impounded source of  
24 radiation are not paid under subsection (3) of this section, the  
25 department shall pay such expenses from:

1           (a) Proceeds from the sale of the source of radiation, if  
2   sold; or

3           (b) Available funds in the Department of Health and Human  
4   Services Regulation and Licensure Cash Fund.

5           Sec. 108. Section 71-3519, Revised Statutes Supplement,  
6   2005, is amended to read:

7           71-3519 Sections 71-3501 to 71-3520 and section 107 of  
8   this act shall be known and may be cited as the Radiation Control  
9   Act.

10          Sec. 109. Section 79-1902, Reissue Revised Statutes of  
11   Nebraska, is amended to read:

12          79-1902 (1) The State Department of Education, in  
13   cooperation with the Department of Health and Human Services, the  
14   Department of Health and Human Services Regulation and Licensure,  
15   and the Department of Health and Human Services Finance and Support  
16   shall develop a packet entitled "Learning Begins at Birth" to be  
17   given to the parents of each child born in this state on and after  
18   January 1, 2003.

19          (2) The packet shall contain information about child  
20   development, child care, how children learn, children's health  
21   including, on and after the operative date of this section,  
22   information on the prevention of sudden infant death syndrome and  
23   shaken baby syndrome, services available to children and parents,  
24   and any other information deemed relevant by the Department of  
25   Health and Human Services, the Department of Health and Human

1 Services Regulation and Licensure, the Department of Health and  
2 Human Services Finance and Support, or the State Department of  
3 Education. The State Department of Education shall indicate which  
4 information in the packet is appropriate for the parents of  
5 infants, for the parents of toddlers, and for the parents of  
6 preschoolers.

7 (3) The State Department of Education shall develop a  
8 variety of types of the packet, based on the needs of parents.  
9 The information in the packets may be in the form of printed  
10 material or in the form of video tapes, audio cassettes, or other  
11 appropriate media.

12 Sec. 110. Section 80-315, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 80-315 (1) The Grand Island Veterans' Home, the Norfolk  
15 Veterans' Home, the Thomas Fitzgerald Veterans' Home, and the  
16 Western Nebraska Veterans' Home are established. On July 1, 2007,  
17 the Eastern Nebraska Veterans' Home is established. The State of  
18 Nebraska shall maintain the homes as provided in sections 80-314 to  
19 80-331.

20 (2) The veterans' home known as the Thomas Fitzgerald  
21 Veterans' Home as of the operative date of this section shall  
22 continue to be known by that name until July 1, 2007. On and after  
23 July 1, 2007, the veterans' home shall be known as the Eastern  
24 Nebraska Veterans' Home.

25 Sec. 111. Section 81-647, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           81-647 (1) All data obtained from medical records of  
3 individual patients is for the confidential use of the department  
4 and the private or public persons or entities that the department  
5 determines may view such records as provided in sections 81-663 to  
6 81-675.

7           (2) The department may approve individuals or entities  
8 to obtain access to case-specific data or case-specific and  
9 patient-identifying data to assist in their research for  
10 prevention, cure, or control of cancer. Any information released  
11 from the cancer registry shall be disclosed as provided in sections  
12 81-663 to 81-675.

13           (3) For purposes of protecting the public health, local  
14 health departments in Nebraska, health departments or cancer  
15 registries located in other states, and the Centers for Disease  
16 Control and Prevention and the National Cancer Institute of the  
17 United States Department of Health and Human Services or their  
18 successors may have access to the data contained in the cancer  
19 registry upon the department's approval based on the entity's  
20 written application\_ and compliance with the confidentiality,  
21 nondisclosure, and patient contact provisions of sections 81-663 to  
22 81-675.

23           Sec. 112. Section 81-668, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           81-668 All case-specific and patient-identifying data

1 obtained from medical records of individual patients shall be for  
2 the confidential use of the department, those reporting data to the  
3 department, and the public health agencies and approved researchers  
4 that the department determines may view such records in order to  
5 carry out the intent of sections 81-663 to 81-675. Such information  
6 shall be privileged and shall not otherwise be divulged or made  
7 public so as to disclose the identity of an individual whose  
8 medical records and health information have been used for acquiring  
9 such data. Aggregate data collected shall be open and accessible to  
10 the public, and such information shall not be considered medical  
11 records pursuant to section 84-712.05. The cost of data retrieval  
12 and data processing shall be paid by the data requester.

13 Case-specific and patient-identifying data may be  
14 released to those individuals or entities who have reported  
15 information to the department. Such data may be released for the  
16 purpose of confirming the accuracy of the data provided and to  
17 coordinate information among sources.

18 Sec. 113. Section 81-671, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 81-671 (1) Except as otherwise provided by the law  
21 governing a specific medical record and health information  
22 registry, the department may release information contained in a  
23 registry to official public health departments and agencies as  
24 follows:

25 ~~(1)~~ (a) Upon request by an official local health



1 department within the State of Nebraska, the department may release  
2 such data ~~to the~~ ~~pertaining to residents within the jurisdiction of~~  
3 ~~the~~ requesting local health department. The official local health  
4 department shall not contact patients using data received under  
5 sections 81-663 to 81-675 without approval by the department of an  
6 application made pursuant to section 81-666; and

7 ~~(2)~~ (b) Upon approval of an application by federal,  
8 state, or local official public health agencies made pursuant to  
9 ~~such~~ section 81-666, the department may release such data.

10 (2) The receiving agency shall not further disclose such  
11 data to any third party but may publish aggregate statistical  
12 reports, except that no patient-identifying data shall be divulged,  
13 made public, or released to any public or private person or  
14 entity. The receiving agency shall comply with the patient contact  
15 provisions of sections 81-663 to 81-675. The receiving agency  
16 shall acknowledge the department and its medical record and health  
17 information registries in any publication in which information  
18 obtained from the medical record and health information registries  
19 is used.

20 (3) The release and acknowledgment provisions of this  
21 section do not apply to cancer registries located in another state  
22 which receive data through approved data exchange agreements.

23 Sec. 114. Section 81-1316, Revised Statutes Cumulative  
24 Supplement, 2004, is amended to read:

25 81-1316 (1) All agencies and personnel of state

1 government shall be covered by sections 81-1301 to 81-1319 and  
2 shall be considered subject to the State Personnel System, except  
3 the following:

4 (a) All personnel of the office of the Governor;

5 (b) All personnel of the office of the Lieutenant  
6 Governor;

7 (c) All personnel of the office of the Secretary of  
8 State;

9 (d) All personnel of the office of the State Treasurer;

10 (e) All personnel of the office of the Attorney General;

11 (f) All personnel of the office of the Auditor of Public  
12 Accounts;

13 (g) All personnel of the Legislature;

14 (h) All personnel of the court systems;

15 (i) All personnel of the Board of Educational Lands and  
16 Funds;

17 (j) All personnel of the Public Service Commission;

18 (k) All personnel of the Nebraska Brand Committee;

19 (l) All personnel of the Commission of Industrial  
20 Relations;

21 (m) All personnel of the State Department of Education;

22 (n) All personnel of the Nebraska state colleges and the  
23 Board of Trustees of the Nebraska State Colleges;

24 (o) All personnel of the University of Nebraska;

25 (p) All personnel of the Coordinating Commission for

1 Postsecondary Education;

2 (q) All personnel of the Governor's Policy Research  
3 Office, but not to include personnel within the State Energy  
4 Office;

5 (r) All personnel of the Commission on Public Advocacy;

6 (s) All agency heads;

7 (t) The Director of Medical Services established under  
8 section 83-125, the director of the Division of Veterans Homes  
9 created in section 80-314, and the chief executive officers of  
10 the Beatrice State Developmental Center, Lincoln Regional Center,  
11 Norfolk Regional Center, Hastings Regional Center, Grand Island  
12 Veterans' Home, Norfolk Veterans' Home, Thomas Fitzgerald Veterans'  
13 Home prior to July 1, 2007, and the Eastern Nebraska Veterans'  
14 Home on and after July 1, 2007, Western Nebraska Veterans'  
15 Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth  
16 Rehabilitation and Treatment Center-Geneva;

17 (u) All personnel employed as pharmacists, physicians,  
18 psychiatrists, or psychologists of the Department of Health and  
19 Human Services, the Department of Health and Human Services Finance  
20 and Support, and the Department of Health and Human Services  
21 Regulation and Licensure; and

22 (v) Deputies and examiners of the Department of Banking  
23 and Finance and the Department of Insurance as set forth in  
24 sections 8-105 and 44-119, except for those deputies and examiners  
25 who remain in the State Personnel System.

1                   (2) At each agency head's discretion, up to the following  
2 number of additional positions may be exempted from the State  
3 Personnel System, based on the following agency size categories:

4	Number of Agency	Number of Noncovered
5	Employees	Positions
6	less than 25	0
7	25 to 100	1
8	101 to 250	2
9	251 to 500	3
10	501 to 1000	4
11	1001 to 2000	5
12	2001 to 3000	8
13	3001 to 4000	11
14	4001 to 5000	14
15	over 5000	17

16                   The purpose of having such noncovered positions shall  
17 be to allow agency heads the opportunity to recruit, hire,  
18 and supervise critical, confidential, or policymaking personnel  
19 without restrictions from selection procedures, compensation rules,  
20 career protections, and grievance privileges. Persons holding the  
21 noncovered positions shall serve at the pleasure of the agency head  
22 and shall be paid salaries set by the agency head.

23                   (3) No changes to this section or to the number of  
24 noncovered positions within an agency shall affect the status  
25 of personnel employed on the date the changes become operative

1 without their prior written agreement. A state employee's career  
2 protections or coverage by personnel rules and regulations shall  
3 not be revoked by redesignation of the employee's position as a  
4 noncovered position without the prior written agreement of such  
5 employee.

6 Sec. 115. Section 81-3007.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 81-3007.01 (1) The departments are authorized to adopt  
9 and promulgate rules and regulations which prescribe standards and  
10 procedures for access to and security of confidential information  
11 among the departments, within each department, and with the  
12 Policy Secretary system chief administrative officer appointed  
13 under section 81-3008. These include standards for collection,  
14 maintenance, and use of information in electronic or other storage  
15 media. Procedures for disclosure of confidential information among  
16 the departments and with the Policy Secretary system chief  
17 administrative officer shall include a determination by the Policy  
18 Cabinet or its designees on whether confidential information should  
19 be shared among the departments and with the Policy Secretary  
20 system chief administrative officer. Such determinations may take  
21 the form of interagency agreements. In making the determination,  
22 the following factors shall be considered:

23 (a) The law governing the confidentiality of the  
24 information and the original purpose for which the information was  
25 collected;

1           (b) The potential for harm to an individual if the  
2 disclosure is made;

3           (c) Whether the disclosure will enhance the  
4 coordination of policy development, service provision, eligibility  
5 determination, program management, quality assurance, or financial  
6 and support services;

7           (d) Whether the information is a trade secret, academic  
8 or scientific research work which is in progress and unpublished,  
9 or other proprietary or commercial information;

10          (e) Any limitations placed on the use of the information  
11 by the original source of the information;

12          (f) Whether the proposed use is for a bona fide research  
13 project or study, the procedures and methodology of which meet the  
14 standards for research in the particular body of knowledge;

15          (g) The security of the information, including the scope  
16 of access, ongoing security, publication, and disposal of the  
17 information at the end of its use;

18          (h) The degree to which aggregate or summary data may  
19 identify an individual whose privacy would otherwise be protected;  
20 and

21          (i) Whether such information constitutes criminal  
22 intelligence information maintained by correctional or law  
23 enforcement authorities.

24          (2) Otherwise confidential information may be disclosed  
25 among the departments and with the ~~Policy Secretary~~ system chief

1 administrative officer pursuant to subsection (1) of this section  
2 if not expressly prohibited by law. Such disclosure shall not be  
3 considered a public disclosure or make the record a public record.  
4 Any further disclosure may be made only if permitted by law or  
5 department policy governing the originating department.

6           The departments and the ~~Policy Secretary~~ system chief  
7 administrative officer shall observe confidentiality of human  
8 resources information and employment records, except that the  
9 departments shall act and be considered to be one department for  
10 purposes of human resources issues, employment records, and related  
11 matters.

12           (3) All officials and employees shall be informed  
13 regarding laws, rules and regulations, and policies governing  
14 confidential information and acknowledge receipt of that  
15 information.

16           Sec. 116. Section 81-3008, Revised Statutes Cumulative  
17 Supplement, 2004, is amended to read:

18           81-3008 (1) The Governor shall appoint a ~~Policy Secretary~~  
19 chief administrative officer for the Nebraska Health and Human  
20 Services System to report to the Governor and to serve full  
21 time at the pleasure of the Governor. The ~~Policy Secretary~~ chief  
22 administrative officer shall be subject to confirmation by a  
23 majority vote of the members of the Legislature.

24           (2) The Policy Secretary chief administrative officer  
25 shall:

1           (a) Encourage and direct initiatives and collaboration in  
2 the system;

3           (b) Facilitate joint planning initiatives in the system;

4           (c) Coordinate budget, research, and data collection  
5 efforts to insure effectiveness of the system;

6           (d) Ensure that the Appropriations Committee of the  
7 Legislature is provided any information the committee requires  
8 to make funding determinations and budget recommendations to  
9 the Legislature, including, but not limited to, specific program  
10 budgets, internal budget requests, fiscal reports, and appearances  
11 by department, division, program, and subprogram directors before  
12 the committee to present department, division, program, and  
13 subprogram budget requests; and

14           (e) Recommend to the Legislature and the Governor  
15 legislation he or she deems necessary or appropriate.

16           ~~(2) On and after January 1, 2007, the Governor may also~~  
17 ~~designate the Policy Secretary to serve as the chief administrative~~  
18 ~~officer for the Nebraska Health and Human Services System.~~

19           Sec. 117. Section 81-3009, Revised Statutes Cumulative  
20 Supplement, 2004, is amended to read:

21           81-3009 The directors of the departments, the Policy  
22 Secretary system chief administrative officer appointed under  
23 section 81-3008, and the chief medical officer, if one is appointed  
24 under section 81-3201, shall be known as the Policy Cabinet of the  
25 Nebraska Health and Human Services System. Any reference to the



1 Policy Cabinet in the Nebraska Health and Human Services System  
2 Act shall be to such persons. The Policy Cabinet shall work to  
3 achieve policy outcomes through development of policy objectives  
4 and strategic plans, to prepare and recommend budgets, to develop  
5 and establish consistent priorities and policies for allocation and  
6 distribution of resources, and to integrate and improve services  
7 and programs administered by the system. The Policy Secretary  
8 system chief administrative officer shall serve as the chairperson  
9 of the Policy Cabinet.

10 Sec. 118. Sections 118 to 145 of this act shall be known  
11 and may be cited as the Physical Therapy Practice Act.

12 Sec. 119. The purpose of the Physical Therapy Practice  
13 Act is to update and recodify statutes relating to the practice of  
14 physical therapy. Nothing in the act shall be construed to expand  
15 the scope of practice of physical therapy as it existed prior to  
16 the operative date of this section.

17 Sec. 120. For purposes of the Physical Therapy Practice  
18 Act, the definitions found in sections 121 to 136 of this act  
19 apply.

20 Sec. 121. Approved educational program means a program  
21 for the education and training of physical therapists and physical  
22 therapist assistants approved by the board pursuant to section 144  
23 of this act.

24 Sec. 122. Board means the Board of Physical Therapy.

25 Sec. 123. Department means the Department of Health and

1 Human Services Regulation and Licensure.

2           Sec. 124. Direct supervision means supervision in which  
3 the supervising practitioner is physically present and immediately  
4 available and does not include supervision provided by means of  
5 telecommunication.

6           Sec. 125. Evaluation means the process of making clinical  
7 judgments based on data gathered from examination of a patient.

8           Sec. 126. General supervision means supervision either  
9 onsite or by means of telecommunication.

10          Sec. 127. Jurisdiction of the United States means any  
11 state of the United States, the District of Columbia, the  
12 Commonwealth of Puerto Rico, or any American territory.

13          Sec. 128. Mobilization or manual therapy means a group of  
14 techniques comprising a continuum of skilled passive movements to  
15 the joints or related soft tissues, or both, throughout the normal  
16 physiological range of motion that are applied at varying speeds  
17 and amplitudes, without limitation.

18          Sec. 129. Non-treatment-related tasks means clerical,  
19 housekeeping, facility maintenance, or patient transportation  
20 services related to the practice of physical therapy.

21          Sec. 130. Physical therapist means a person licensed to  
22 practice physical therapy under the Physical Therapy Practice Act.

23          Sec. 131. Physical therapist assistant means a person  
24 certified as a physical therapist assistant under the Physical  
25 Therapy Practice Act.

1           Sec. 132. Physical therapy or physiotherapy means:

2           (1) Examining, evaluating, and testing individuals  
3 with mechanical, physiological, and developmental impairments,  
4 functional limitations, and disabilities or other conditions  
5 related to health and movement and, through analysis of the  
6 evaluative process, developing a plan of therapeutic intervention  
7 and prognosis while assessing the ongoing effects of the  
8 intervention;

9           (2) Alleviating impairment, functional limitation, or  
10 disabilities by designing, implementing, or modifying therapeutic  
11 interventions which may include any of the following: Therapeutic  
12 exercise; functional training in home, community, or work  
13 integration or reintegration related to physical movement and  
14 mobility; therapeutic massage; mobilization or manual therapy;  
15 recommendation, application, and fabrication of assistive,  
16 adaptive, protective, and supportive devices and equipment;  
17 airway clearance techniques; integumentary protection techniques;  
18 nonsurgical debridement and wound care; physical agents or  
19 modalities; mechanical and electrotherapeutic modalities; and  
20 patient-related instruction; but which does not include the making  
21 of a medical diagnosis;

22           (3) Purchasing, storing, and administering topical  
23 and aerosol medication in compliance with applicable rules and  
24 regulations of the Board of Pharmacy regarding the storage of such  
25 medication;

1           (4) Reducing the risk of injury, impairment, functional  
2 limitation, or disability, including the promotion and maintenance  
3 of fitness, health, and wellness; and

4           (5) Engaging in administration, consultation, education,  
5 and research.

6           Sec. 133. Physical therapy aide means a person who  
7 is trained under the direction of a physical therapist and who  
8 performs treatment-related and non-treatment-related tasks.

9           Sec. 134. Student means a person enrolled in an approved  
10 educational program.

11          Sec. 135. Testing means standard methods and techniques  
12 used to gather data about a patient. Testing includes surface  
13 electromyography and, subject to approval of the board, fine  
14 wire electromyography. Testing excludes diagnostic needle  
15 electromyography.

16          Sec. 136. Treatment-related tasks means activities  
17 related to the practice of physical therapy that do not require  
18 the clinical decisionmaking of a physical therapist or the clinical  
19 problem solving of a physical therapist assistant.

20          Sec. 137. (1) No person may practice physical therapy,  
21 hold oneself out as a physical therapist or physiotherapist, or  
22 use the abbreviation PT in this state without being licensed by  
23 the department. No person may practice as a physical therapist  
24 assistant, hold oneself out as a physical therapist assistant, or  
25 use the abbreviation PTA in this state without being certified by

1 the department.

2 (2) A physical therapist may use the title physical  
3 therapist or physiotherapist and the abbreviation PT in connection  
4 with his or her name or place of business. A physical therapist  
5 assistant may use the title physical therapist assistant and the  
6 abbreviation PTA in connection with his or her name.

7 (3) No person who offers or provides services to another  
8 or bills another for services shall characterize such services as  
9 physical therapy or physiotherapy unless such services are provided  
10 by a physical therapist or a physical therapist assistant acting  
11 under the general supervision of a physical therapist.

12 Sec. 138. The following classes of persons shall not be  
13 construed to be engaged in the unauthorized practice of physical  
14 therapy:

15 (1) A member of another profession who is credentialed by  
16 the department and who is acting within the scope of practice of  
17 his or her profession;

18 (2) A student in an approved educational program who is  
19 performing physical therapy or related services within the scope  
20 of such program and under the direct supervision of a physical  
21 therapist;

22 (3) A person practicing physical therapy or as a physical  
23 therapist assistant in this state pursuant to federal regulations  
24 for state licensure of health care providers for the United States  
25 Armed Forces, the United States Public Health Service, or the

1 United States Department of Veterans Affairs;

2 (4) A person credentialed to practice physical therapy  
3 or as a physical therapist assistant in another jurisdiction of  
4 the United States or in another country who is teaching physical  
5 therapy or demonstrating or providing physical therapy or related  
6 services in connection with an educational program in this state;

7 (5) A person credentialed to practice physical therapy  
8 in another jurisdiction of the United States or in another country  
9 who, by contract or employment, is providing physical therapy  
10 or related services in this state to individuals affiliated with  
11 established athletic teams, athletic organizations, or performing  
12 arts companies while such teams, organizations, or companies are  
13 present and temporarily practicing, competing, or performing in  
14 this state; or

15 (6) A person employed by a school district, educational  
16 service unit, or other public or private educational institution  
17 or entity serving pre-kindergarten through twelfth grade students  
18 who is providing personal assistance services, including mobility  
19 and transfer activities, such as assisting with ambulation with  
20 and without aids; positioning in adaptive equipment; application  
21 of braces; encouraging active range-of-motion exercises; assisting  
22 with passive range-of-motion exercises; assisting with transfers  
23 with or without mechanical devices; and such other personal  
24 assistance services based on individual needs as are suitable  
25 to providing an appropriate educational program.

1           Sec. 139. Section 71-2803, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-2803~~ Every applicant for a license to practice  
4 physical therapy shall:

5           (1) Present proof of completion of an approved  
6 educational program; ~~as defined in section 71-2804,~~

7           (2) In the case of an applicant who has been trained  
8 as a physical therapist in a foreign country, (a) present  
9 documentation of completion of a course of professional instruction  
10 substantially equivalent to an approved program accredited by the  
11 ~~American Physical Therapy Association~~ Commission on Accreditation  
12 in Physical Therapy Education or by an equivalent accrediting  
13 agency as determined by the ~~Board of Physical Therapy board~~ and (b)  
14 present proof of proficiency in the English language; and

15           (3) ~~Except as provided in section 71-2805, successfully~~  
16 Successfully complete an examination approved by the department ~~on~~  
17 the upon recommendation of the board.

18           Sec. 140. Every applicant for a certificate to practice  
19 as a physical therapist assistant shall:

20           (1) Present proof of completion of an approved  
21 educational program; and

22           (2) Successfully complete an examination approved by the  
23 department upon recommendation of the board.

24           Sec. 141. Section 71-2810, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   ~~71-2810~~ Notwithstanding any other provisions of law, a  
2   (1) A physical therapist assistant may perform physical therapy  
3   services when he or she renders such services under the general  
4   supervision of a licensed physical therapist, ~~or group of licensed~~  
5   ~~physical therapists approved by the board,~~ except that no physical  
6   therapist assistant shall perform the following:

- 7                   ~~(1)~~ (a) Interpretation of physician referrals;  
8                   ~~(2) Plan treatment programs~~ (b) Development of a plan of  
9   care;  
10                  ~~(3)~~ (c) Initial evaluations or reevaluation of patients;  
11                  ~~(4)~~ (d) Readjustment of treatment programs a plan of care  
12   without consultation with the certified and licensed supervising  
13   physical therapist; or  
14                  ~~(5)~~ (e) Discharge planning for patients. Tests and  
15   measurements, with the exception of goniometry and functional  
16   muscle testing;  
17                  ~~(6) Home instructions to patients or families;~~  
18                  ~~(7) Joint assessment and mobilization; or~~  
19                  ~~(8) Complex neurodevelopmental treatments.~~  
20                  (2) A physical therapist may provide general supervision  
21   for no more than two physical therapist assistants. A physical  
22   therapist shall not establish a satellite office at which a  
23   physical therapist assistant provides care without the general  
24   supervision of the physical therapist.  
25                  (3) A physical therapist shall reevaluate or reexamine on



1 a regular basis each patient receiving physical therapy services  
2 from a physical therapist assistant under the general supervision  
3 of the physical therapist.

4 (4) A supervising physical therapist and the physical  
5 therapist assistant under general supervision shall review the plan  
6 of care on a regular basis for each patient receiving physical  
7 therapy services from the physical therapist assistant.

8 (5) A physical therapist assistant may document physical  
9 therapy services provided by the physical therapist assistant  
10 without the signature of the supervising physical therapist.

11 (6) A physical therapist assistant may act as a clinical  
12 instructor for physical therapist assistant students in an approved  
13 educational program.

14 Sec. 142. (1) For each patient under his or her care, a  
15 physical therapist shall:

16 (a) Be responsible for managing all aspects of physical  
17 therapy services provided to the patient and assume legal liability  
18 for physical therapy and related services provided under his or her  
19 supervision;

20 (b) Provide an initial evaluation and documentation of  
21 the evaluation;

22 (c) Provide periodic reevaluation and documentation of  
23 the reevaluation;

24 (d) Provide documentation for discharge, including the  
25 patient's response to therapeutic intervention at the time of

1 discharge; and

2 (e) Be responsible for accurate documentation and billing  
3 for services provided.

4 (2) For each patient under his or her care on each date  
5 physical therapy services are provided to such patient, a physical  
6 therapist shall:

7 (a) Provide all therapeutic interventions that require  
8 the expertise of a physical therapist; and

9 (b) Determine the appropriate use of physical therapist  
10 assistants or physical therapy aides.

11 Sec. 143. A physical therapy aide may perform  
12 treatment-related and non-treatment-related tasks under the  
13 supervision of a physical therapist or a physical therapist  
14 assistant.

15 Sec. 144. Section 71-2804, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-2804 The board may approve programs for ~~For purposes~~  
18 ~~of sections 71-2801 to 71-2823,~~ approved educational program  
19 shall mean a program of physical therapy or physical therapist  
20 assistant education and training. ~~approved by the Board of Physical~~  
21 ~~Therapy.~~ Such approval may be based on the program's accreditation  
22 by the American Physical Therapy Association Commission on  
23 Accreditation in Physical Therapy Education ~~or by equivalent~~  
24 standards established by the board.

25 Sec. 145. Section 71-2807, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-2807~~ The Board of Physical Therapy shall~~7~~ with the  
3 approval of the department~~7~~ adopt and promulgate rules and  
4 regulations as necessary for the administration of sections ~~71-2801~~  
5 to ~~71-2823~~. Such rules and regulations shall include~~7~~ but not  
6 be limited to~~7~~ a definition for onsite supervision of a physical  
7 therapist assistant and the proper utilization of such assistant  
8 by a physical therapist and what constitutes an emergency not  
9 requiring onsite supervision of a licensed physical therapist.  
10 The department, upon recommendation of the board, shall adopt and  
11 promulgate rules and regulations to carry out the Physical Therapy  
12 Practice Act. All rules and regulations adopted and promulgated  
13 under this section prior to the operative date of this section  
14 shall be effective until revised, amended, repealed, or nullified  
15 pursuant to law.

16           Sec. 146. Section 83-107.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           83-107.01 The official names of the state institutions  
19 under the supervision of the Department of Health and Human  
20 Services shall be as follows: (1) Beatrice State Developmental  
21 Center, (2) Lincoln Regional Center, (3) Norfolk Regional Center,  
22 (4) Hastings Regional Center, (5) Grand Island Veterans' Home, (6)  
23 Norfolk Veterans' Home, ~~(7) Thomas Fitzgerald Veterans' Home,~~ ~~(8)~~  
24 (7) Western Nebraska Veterans' Home, ~~(9)~~ (8) Youth Rehabilitation  
25 and Treatment Center-Kearney, and ~~(10)~~ (9) Youth Rehabilitation and

1 Treatment Center-Geneva.

2 The official name of the state institution under the  
3 supervision of the Department of Health and Human Services shall be  
4 the Thomas Fitzgerald Veterans' Home prior to July 1, 2007, and,  
5 on and after July 1, 2007, shall be the Eastern Nebraska Veterans'  
6 Home.

7 Sec. 147. The Legislature finds that sudden infant death  
8 syndrome is the sudden, unexpected death of an apparently healthy  
9 infant less than one year of age that remains unexplained after  
10 the performance of a complete postmortem investigation, including  
11 an autopsy, an examination of the scene of death, and a review of  
12 the medical history. The Legislature further finds that, despite  
13 the success of prevention efforts, sudden infant death syndrome has  
14 been the second leading cause of death for infants in Nebraska for  
15 the last twenty years. Although there are no known ways to prevent  
16 sudden infant death syndrome in all cases, there are steps that  
17 parents and caregivers can take to reduce the risk of sudden infant  
18 death. The Legislature further finds and declares that there is a  
19 present and growing need to provide additional programs aimed at  
20 reducing the number of cases of sudden infant death syndrome in  
21 Nebraska.

22 Sec. 148. The Legislature finds that shaken baby syndrome  
23 is the medical term used to describe the violent shaking of an  
24 infant or child and the injuries or other results sustained by  
25 the infant or child. The Legislature further finds that shaken

1 baby syndrome may occur when an infant or child is violently  
2 shaken as part of a pattern of abuse or because an adult has  
3 momentarily succumbed to the frustration of responding to a crying  
4 infant or child. The Legislature further finds that these injuries  
5 can include brain swelling and damage, subdural hemorrhage, mental  
6 retardation, or death. The Legislature further finds and declares  
7 that there is a present and growing need to provide programs  
8 aimed at reducing the number of cases of shaken baby syndrome in  
9 Nebraska.

10           Sec. 149. Every hospital, birth center, or other medical  
11 facility that discharges a newborn child shall request that each  
12 maternity patient and father of a newborn child, if available,  
13 view a video presentation and read printed materials, approved by  
14 the Department of Health and Human Services, on the dangers of  
15 shaking infants and children, the symptoms of shaken baby syndrome,  
16 the dangers associated with rough handling or the striking of  
17 an infant, safety measures which can be taken to prevent sudden  
18 infant death, and the dangers associated with infants sleeping in  
19 the same bed with other children or adults. After viewing the  
20 presentation and reading the materials or upon a refusal to do so,  
21 the hospital, birth center, or other medical facility shall request  
22 that the mother and father, if available, sign a form stating that  
23 he or she has viewed and read or refused to view and read the  
24 presentation and materials. Such presentation, materials, and forms  
25 may be provided by the department.

1           Sec. 150. The Department of Health and Human Services  
2 shall conduct public awareness activities designed to promote  
3 the prevention of sudden infant death syndrome and shaken baby  
4 syndrome. The public awareness activities may include, but not  
5 be limited to, public service announcements, information kits and  
6 brochures, and the promotion of preventive telephone hotlines.

7           Sec. 151. On and after the operative date of this  
8 section, positions of employment in the Department of Health  
9 and Human Services related to the powers, duties, and functions  
10 transferred to the Department of Health and Human Services Finance  
11 and Support pursuant to this legislative bill are transferred to  
12 the Department of Health and Human Services Finance and Support.  
13 For purposes of the transition, employees of the Department of  
14 Health and Human Services shall be considered employees of the  
15 department to which their positions were transferred and shall  
16 retain their rights under the state personnel system or pertinent  
17 bargaining agreement, and their service shall be deemed continuous.  
18 This section does not grant employees any new rights or benefits  
19 not otherwise provided by law or bargaining agreement or preclude  
20 the department or the Director of Finance and Support from  
21 exercising any of the prerogatives of management set forth in  
22 section 81-1311 or as otherwise provided by law. This section  
23 is not an amendment to or substitute for the provisions of any  
24 existing bargaining agreements.

25           Sec. 152. On the operative date of this section, all

1 items of property, real and personal, including office furniture  
2 and fixtures, books, documents, and records of the Department of  
3 Health and Human Services pertaining to the duties and functions  
4 transferred to the Department of Health and Human Services Finance  
5 and Support by this legislative bill shall become the property of  
6 such department.

7           Sec. 153. On and after the operative date of this  
8 section, whenever the Department of Health and Human Services  
9 is referred to or designated by any contract or other document  
10 in connection with the duties and functions transferred to the  
11 Department of Health and Human Services Finance and Support by  
12 this legislative bill, such reference or designation shall apply  
13 to such department. All contracts entered into by the Department  
14 of Health and Human Services prior to the operative date of this  
15 section in connection with the duties and functions transferred to  
16 the Department of Health and Human Services Finance and Support are  
17 hereby recognized, with such department succeeding to all rights  
18 and obligations under such contracts. Any cash funds, custodial  
19 funds, gifts, trusts, grants, and any appropriations of funds  
20 from prior fiscal years available to satisfy obligations incurred  
21 under such contracts shall be transferred and appropriated to the  
22 succeeding department for the payments of such obligations. All  
23 licenses, certificates, registrations, permits, seals, or other  
24 forms of approval issued by the Department of Health and Human  
25 Services in accordance with functions or duties transferred to the

1 Department of Health and Human Services Finance and Support shall  
2 remain valid as issued under the name of the original department  
3 unless revoked or their effectiveness is otherwise terminated as  
4 provided by law. All documents and records transferred, or copies  
5 of the same, may be authenticated or certified by the Department  
6 of Health and Human Services Finance and Support for all legal  
7 purposes.

8           Sec. 154. All rules, regulations, and orders of the  
9 Department of Health and Human Services adopted prior to the  
10 operative date of this section in connection with the powers,  
11 duties, and functions transferred to the Department of Health and  
12 Human Services Finance and Support under this legislative bill  
13 shall continue to be effective until revised, amended, repealed, or  
14 nullified pursuant to law.

15           No suit, action, or other proceeding, judicial or  
16 administrative, lawfully commenced prior to the operative date of  
17 this section or which could have been commenced prior to that date,  
18 by or against the Department of Health and Human Services, or  
19 any director or employee thereof in such director's or employee's  
20 official capacity or in relation to the discharge of his or her  
21 official duties, shall abate by reason of the transfer of duties  
22 and functions from such department to the Department of Health and  
23 Human Services Finance and Support.

24           Sec. 155. Sections 51, 52, 53, 54, 55, 56, 57, 58, 59,  
25 60, 61, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 86,



1 87, 88, 89, 90, 151, 152, 153, 154, and 157 of this act become  
2 operative on July 1, 2006. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,  
3 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27,  
4 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 81, 158, and 161 of this  
5 act become operative on August 1, 2006. Sections 115, 116, 117,  
6 and 159 of this act become operative on January 1, 2007. Sections  
7 38, 39, 40, 41, 50, 62, 64, 79, 91, 92, 93, 94, 95, 96, 97, 98,  
8 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 118,  
9 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131,  
10 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144,  
11 145, 146, 160, and 162 of this act become operative three calendar  
12 months after the adjournment of this legislative session. The other  
13 sections of this act become operative on their effective date.

14           Sec. 156. Original sections 68-1713, 68-1721, 71-193.01,  
15 71-193.02, 71-193.03, 81-647, 81-668, and 81-671, Reissue Revised  
16 Statutes of Nebraska, sections 71-113 and 81-1316, Revised Statutes  
17 Cumulative Supplement, 2004, and section 71-1,104.01, Revised  
18 Statutes Supplement, 2005, are repealed.

19           Sec. 157. Original sections 43-522, 43-524, 43-2505,  
20 43-2507, 43-2508, 43-2509, 43-2510, 43-2512, 43-3401, 68-1204,  
21 68-1205, 68-1206, 68-1402, 68-1403, 68-1405, 68-1503, 68-1514,  
22 68-1521, 68-1522, and 68-1523, Reissue Revised Statutes of  
23 Nebraska, sections 28-356, 28-372, 28-380, 71-612, 71-617.15,  
24 71-627, 71-628, and 71-634, Revised Statutes Cumulative Supplement,  
25 2004, and section 68-1021.01, Revised Statutes Supplement, 2005,

1 are repealed.

2           Sec. 158. Original sections 71-7401, 71-7402, 71-7403,  
3 71-7404, 71-7405, 71-7406, 71-7407, 71-7408, 71-7409, 71-7410,  
4 71-7411, 71-7412, 71-7413, 71-7416, 71-7417, 71-7420, 71-7422,  
5 71-7423, 71-7424, 71-7425, and 71-7426, Reissue Revised Statutes  
6 of Nebraska, and section 71-162, Revised Statutes Cumulative  
7 Supplement, 2004, are repealed.

8           Sec. 159. Original section 81-3007.01, Reissue Revised  
9 Statutes of Nebraska, and sections 81-3008 and 81-3009, Revised  
10 Statutes Cumulative Supplement, 2004, are repealed.

11           Sec. 160. Original sections 43-2606, 43-3402, 71-2225,  
12 71-2803, 71-2804, 71-2807, 71-2810, 71-3515.01, 71-3515.02,  
13 71-3516, 79-1902, 80-315, and 83-107.01, Reissue Revised Statutes  
14 of Nebraska, sections 20-162, 71-801, 71-802, 71-814, 71-1910,  
15 71-1911, 71-1911.02, 71-1914, and 71-1916, Revised Statutes  
16 Cumulative Supplement, 2004, and sections 71-101, 71-815, 71-816,  
17 71-1721, 71-3503, and 71-3519, Revised Statutes Supplement, 2005,  
18 are repealed.

19           Sec. 161. The following sections are outright repealed:  
20 Sections 71-7414, 71-7415, 71-7418, 71-7419, and 71-7421, Reissue  
21 Revised Statutes of Nebraska.

22           Sec. 162. The following sections are outright repealed:  
23 Sections 71-2801, 71-2802, 71-2803.01, 71-2805, 71-2808, 71-2809,  
24 71-2811, 71-2812, 71-2814, 71-2815, 71-2816, 71-2817, 71-2819,  
25 71-2820, 71-2821, 71-2822, and 71-2823, Reissue Revised Statutes of

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1 Nebraska, sections 71-819, 71-820, and 71-1917, Revised Statutes  
2 Cumulative Supplement, 2004, and section 71-813, Revised Statutes  
3 Supplement, 2005.

4           Sec. 163. Since an emergency exists, this act takes  
5 effect when passed and approved according to law.